Regulating Freedom of Speech on Social Media

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ABSTRACT
This article is regulation freedom of speech on social media. Freedom of speech is a principle that supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or legal sanction. The term "freedom of expression" is sometimes used synonymously but includes any act of seeking, receiving, and imparting information or ideas, regardless of the medium used. Freedom of expression is recognized as a human right under article 19 of the Universal Declaration of Human Rights (UDHR) and recognized in international human rights law in the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the UDHR states that "everyone shall have the right to hold opinions without interference" and "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". Social media platforms have revolutionised our ability to connect across historic social, political and geographic divides. Where previously gatekeepers mitigated and negotiated access to mass media platforms, today potentially anyone and any content can reach millions of individuals in an instant. This development bears great opportunities for the democratisation of expression and the diversification of public discourse but has likewise broadened the impact and harm done through disinformation and hate speech.

Keywords: Regulating, freedom, speech, social, media.

INTRODUCTION
Social media platforms have revolutionised our ability to connect across historic social, political and geographic divides. Where previously gatekeepers mitigated and negotiated access to mass media platforms, today potentially anyone and any content can reach millions of individuals in an instant [1] [2]. This development bears great opportunities for the democratisation of expression and the diversification of public discourse but has likewise broadened the impact and harm done through disinformation and hate speech. As regulators across Europe and the United States weigh responses to the legal novelities and challenges that social media represents, the project will seek to frame and advance the debate on core issues. Should the scope of protections be broader and allow more free speech online, or instead recalibrate to address increases in hateful, violent and discriminatory content? More generally, how can human rights law be asserted and enforced in an online environment where corporations like facebook and twitter seem to hold all the cards [3].

The internet does not only bring democracy, freedom and equality. On 'social media', too, constitutional values are under pressure and democracy is not always the norm. Online media companies acknowledge that even extremist and terrorist anti-democratic groups use 'social media' to spread their message [4]. Various governments, including the European Union, have called online media companies to do something about such messages. But what can be done against discriminatory and xenophobic reports and the spreading of terrorist propaganda? Should online media companies themselves make these messages inaccessible or even remove them? Or is the intervention of a judge
necessary for this? These questions are not easy to answer [5]. It's not for nothing that the online media company Facebook calls these questions 'hard quests' themselves. Not only asking states to intervene in the expression of expression on 'social media', but even non-state organisations and movements also influence online media companies, sometimes even under the threat of a boycott or violence. But what if online media companies admit this? Is censorship of an increasingly important medium for public debate? In times of 'fake news', 'online terrorism' and 'online hatred', Michael Klos wants to critically review the existing legal, policy and ethical frameworks for regulation of online media. In this research project, he wants to deal with questions such as: how can we legitimise regulation of 'social media'? How do the existing laws work? Are the 'offline' laws that apply in the various countries suitable for enforcement on international social media? How can these legal frameworks be assessed in the light of democratic and constitutional values [6].

Freedom of speech is a principle that supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or legal sanction. The term "freedom of expression" is sometimes used synonymously but includes any act of seeking, receiving, and imparting information or ideas, regardless of the medium used. Freedom of expression is recognized as a human right under article 19 of the Universal Declaration of Human Rights (UDHR) and recognized in international human rights law in the International Covenant on Civil and Political Rights (ICCPR) [7] [8]. Article 19 of the UDHR states that "everyone shall have the right to hold opinions without interference" and "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". The version of Article 19 in the ICCPR later amends this by stating that the exercise of these rights carries "special duties and responsibilities" and may "therefore be subject to certain restrictions" when necessary "or respect of the rights or reputation of others" or "or the protection of national security or of public order (order public), or of public health or morals".

Freedom of speech and expression, therefore, may not be recognized as being absolute, and common limitations or boundaries to freedom of speech relate to libel, slander, obscenity, pornography, sedition, incitement, fighting words, classified information, copyright violation, trade secrets, food labeling, non-disclosure agreements, the right to privacy, dignity, the right to be forgotten, public security, and perjury [9] [10]. Justifications for such include the harm principle, proposed by John Stuart Mill in On Liberty, which suggests that: "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."

The idea of the "offense principle" is also used in the justification of speech limitations, describing the restriction on forms of expression deemed offensive to society, considering factors such as extent, duration, motives of the speaker, and ease with which it could be avoided. With the evolution of the digital age, application of freedom of speech becomes more controversial as new means of communication and restrictions arise, for example the Golden Shield Project, an initiative by Chinese government's Ministry of Public Security that filters. Social media are interactive computer-mediated technologies that facilitate the creation or sharing of information, ideas, career interests and other forms of expression via virtual communities and networks [11]. The variety of stand-alone and built-in social media services currently available introduces challenges of definition; however, there are some common features:

- Social media are interactive Web 2.0 Internet-based applications.
- User-generated content such as text posts or comments, digital
photos or videos, and data generated through all online interactions, is the lifeblood of social media.

- Users create service-specific profiles and identities for the website or app that are designed and maintained by the social media organization.
- Social media facilitate the development of online social networks by connecting a user's profile with those of other individuals or groups.

Users usually access social media services via web-based apps on desktops and laptops, or download services that offer social media functionality to their mobile devices (e.g., smartphones and tablets). As users engage with these electronic services, they create highly interactive platforms through which individuals, communities, and organizations can share, co-create, discuss, participate and modify user-generated content or self-curated content posted online.

Networks formed through social media change the way groups of people interact and communicate or stand with the votes. They "introduce substantial and pervasive changes to communication between organizations, communities, and individuals." These changes are the focus of the emerging fields of technoself studies. Social media differ from paper-based media (e.g., magazines and newspapers) and traditional electronic media such as TV broadcasting, Radio broadcasting in many ways, including quality, reach, frequency, interactivity, usability, immediacy, and performance. Social media outlets operate in a dialogic transmission system (many sources to many receivers). This is in contrast to traditional media which operates under a mono-logic transmission model (one source to many receivers), such as a newspaper which is delivered to many subscribers, or a radio station which broadcasts the same programs to an entire city. Some of the most popular social media websites, with over 100 million registered users, include Facebook (and its associated Facebook Messenger), TikTok, WeChat, Instagram, QZone, Weibo, Twitter, Tumblr, Baidu Tieba, LinkedIn and VK. Other popular platforms that are sometimes referred to as social media services (differing on interpretation) include YouTube, QQ, Quora, Telegram, WhatsApp, LINE, Snapchat, Pinterest, Viber, Reddit, Discord and more.

Observers have noted a wide range of positive and negative impacts of social media use. Social media can help to improve an individual's sense of connectedness with real or online communities and can be an effective communication (or marketing) tool for corporations, entrepreneurs, non-profit organizations, advocacy groups, political parties, and governments.

The Pros and Cons of Regulating Freedom of Speech on Social Media

President Trump recently complained that Google searches are biased against Republicans and conservatives. Many conservatives argue that Facebook and Google are monopolies seeking to restrict conservative speech. In contrast, many on the left complain that large social media platforms fostered both Trump’s election in 2016 and violence in Charlottesville in 2017. Many on both sides believe that government should actively regulate the moderation of social media platforms to attain fairness, balance, or other values. Yet American law and culture strongly circumscribe government power to regulate speech on the internet and elsewhere. Regulations of social media companies might either indirectly restrict individual speech or directly limit a right to curate an internet platform. The First Amendment offers strong protections against such restrictions. Congress has offered additional protections to tech companies by freeing them from most intermediary liability for speech that appears on their platforms. The U.S. Supreme Court has decided that private companies in general are not bound by the First Amendment.

However, some activists support new efforts by the government to regulate social media. Although some platforms are large and dominant, their market power can disintegrate, and alternatives...
are available for speakers excluded from a platform. [19] The history of broadcast regulation shows that government regulation tends to support rather than mitigate monopolies. Others worry that social media leads to “filter bubbles” that preclude democratic deliberation. But the evidence for filter bubbles is not strong, and few remedies exist that are compatible with the Constitution [20].

There are celebrities in all of the arts – musicians, actors, authors – and even those who are universally known because of their wealth or political leadership. They are in the news a lot. Then there are “celebrities” who are known by their followers on social media, also known as micro-influencers. Some give advice on health and fitness; some advise on beauty, fashion, cooking or love and marriage [21]. The most well-known can have up to millions of followers, and most are in younger generations. So important have these influencers become, that companies are using them for marketing their products and services, and some are making huge sums for their endorsements [22]. In fact, the average spending per influencer marketing program reached US$50,000 in 2017. But what happens when an influencer gives poor advice – advice that turns out to be harmful, either physically or psychologically? Or when an influencer deliberately delivers lies that constitute libel or slander? While traditional media outlets (i.e., television and radio) have been licensed and regulated for decades, social media has enjoyed rather complete freedom of speech [23].

A new trend toward licensing and regulation

Earlier in March this year, the National Media Council of the UAE announced new regulations affecting anyone using social media for commercial purposes. By June, these individuals must register with the government and be licensed, in order to continue to use social media for marketing [24]. The new regulations are clearly aimed as social media influencers, as well as electronic news sites, publishers, and on-demand printing niches. According to The Council Director, Mansour Ibrahim Al Mansouri, the goal is to enhance the reliability of what people see and read online. It will hold people accountable for what they say and advise, should their content prove harmful or untrue.

Certainly, there are some good reasons for regulating the words and actions of influencers who have large followings. Here are a few examples.

- Suppose an influencer with no medical background provides health advice that seriously harms his/her followers. At this point, except in the UAE, there are no consequences. The same cannot be said for a doctor who is subject to medical malpractice lawsuits and even criminal charges. And that doctor is fully licensed to practice medicine.
- Suppose an influencer with a young, impressionable following urges those kids to engage in risky behaviors, and some injuries occur? A licensed teacher who did the same would suffer severe consequences.

To date, most social media platforms have been largely self-regulatory, and that has not always worked well. During the 2016 U.S. election, for example, there were a lot of fraudulent users of Facebook and Twitter who were actually agents of other countries, attempting to influence voters. So significant was this practice, that the U.S. Congress hauled the owners in during its investigation of the problem [25].

**Free speech vs. harm**

This is clearly the issue. While certainly, free speech is a valued principle in many countries, it can go too far. But social media is a very different “animal.” People are told not to take what they see and read on the Internet at total truth – anyone can post almost anything, including harmful advice. And because social media platforms are privately held corporations, they can make their own rules about who participates and what they say. To date, they are heavily on the side of free speech [26]. It is up to the individual participant to discern fact from fiction and good from bad. The other side of this argument is
also somewhat valid. Corporations that advertise their products, for example, must be truthful about those products [27]. The other issue related to social media is one of liability. If regulations are in place that make certain content illegal, and someone who has a personal account violates the law with his/her posting, who is liable? The individual or the owner of the platform who allowed that violation, or both? Clearly, the Internet and social media in particular have brought a number of legal questions, and the discussion has only begun. It will take a lot of sorting out of details, as any government attempts to regulate what people say or do online [28]. The UAE has clearly begun the discussion, but the devil will clearly be in the details. Now that social media outlets and influencers will have to acquire a license, for example, what next? What will be the “rules” that determine what is okay and what is not? And how will courts determine these things until a body of law exists surrounding proper use of social media? We’ll have to wait to find out over time [29] [30].

CONCLUSION

American history and political culture assign priority to the private in governing speech online and particularly on social media. The arguments advanced for a greater scope of government power do not stand up. Granting such power would gravely threaten free speech and the independence of the private sector. We have seen that these tech companies are grappling with many of the problems cited by those calling for public action. The companies are technically sophisticated and thus far more capable of dealing with these issues. Of course, the efforts of the companies may warrant scrutiny and criticisms, now and in the future. But at the moment, a reasonable person can see promise in their efforts, particularly in contrast to the likely dangers posed by government regulation. Government officials may attempt directly or obliquely to compel tech companies to suppress disfavored speech. The victims of such public-private censorship would have little recourse apart from political struggle. The tech companies, which rank among America’s most innovative and valuable firms, would then be drawn into the swamp of a polarized and polarizing politics. To avoid politicizing tech, it is vital that private content moderators be able to ignore explicit or implicit threats to their independence from government officials. It is Facebook, Medium, and Pinterest—not Congress or President Trump—that have a presumption of legitimacy to remove the speech of StormFront and similar websites. These firms need to nurture their legitimacy to moderate content. The companies may have to fend off government officials eager to suppress speech in the name of the “public good.” The leaders of these businesses may regret being called to meet this challenge with all its political and social dangers and complexities. But this task cannot be avoided. No one else can or should do the job.

REFERENCES

