



# The Role Of Digital Media Platforms In Exercising Freedom Of Expression: Legal Accountability And Liability

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## **ABSTRACT**

The current study examines how online communities are redefining accountability, and create an opportunity for individuals to feel free to exercise their expression. To estimate how social media platforms such as Facebook and Twitter frame international communication, the study relies on secondary data from scholarly research, court cases, and reputable web sources. While all of these digital environments carry the potential for misinformation, hate speech, or the censoring of content, they may also be an opportunity for democratic participation. This study highlights struggle with encouraging free expression confined within democratic values of establishing and regulating protections against harmful expression by codifying human rights protections and balancing regulation with the notion of proportionality. Essentially, it was assessed that the over-regulation of free expression or entirely unregulated free expression was not beneficial for democratic values. The study concludes with recommendations for increasing digital literacy, a more balanced approach to regulating free expression and formalizing accountability mechanisms about expressing one's speech that is open and transparent, in an equitable and safe online space to better encourage free expression.

**KEYWORDS:** Freedom of Expression, Digital Media Platforms, Social Media Regulation, Legal Accountability, Platform Liability

## 2.1 INTRODUCTION

The Internet has permeated every aspect of lives, from daily routines to homes, and has had a profound impact on the society. In instance, social media has provided platforms where public leaders, media academics, company owners, and ordinary individuals may voice their opinions on any new subject. To rephrase, the vast and varied audience that may access people's ideas is made possible by social media platforms. Nevertheless, although technology presents a fantastic chance for many to promote democracy and free expression, it may backfire when abused by others who want to silence dissent or further their goals. Consequently, there is a great deal of debate around the internet and the development of cutting-edge technology. For example, in recent years, terrorists who are both intolerant and fanatical have been fuelling racism in society by many means, including online hate speech, infiltration calls, and violent campaigns, which has had a devastating impact on many families throughout the globe. In a harmful attempt to attract men and women to their worldwide battle of views, which led to undesirable behaviours, it is not surprising that Isis and Daech's major instrument for recruiting was their online platforms and e-magazines like Al Dabiq. The scope of digital media and how it impacts free speech. Using a variety of interviews recorded between 2012 and 2017, they investigate the extent to which evil forces have been able to use digital media to further their goals and the ways in which "Modern freedom of expression" has given them access to previously untapped channels for disseminating their ideology. Regarding this, the following research question used to direct search: How can violent and extremist ideologies spread via social media? This study will not only examine the current state of affairs regarding the implications of social media on free speech, it will also provide suggestions that would be helpful in the fight against terrorism.

Social media sites like Facebook have been seen as a boon to democracy for a long time now. This can be primarily linked to their role as an environment for people to articulate their feelings, interact, identify cross-national commonalities, connect knowledge across various sources, and positioned around shared interests. However, new challenges develop as a result of the speed and scale of social media consumption. The dynamic growth of social media made it easier for many dangerous and illegal materials to be placed in the public sphere, as well as incitement to hatred, violence, & discrimination. Not only may these things hurt the people who are being attacked, but they can also hurt public discourse (Dangerous Speech Project, 2020; DIHR, 2017, 2019). In light of these difficulties, lawmakers in the European Union are putting more and more pressure on social media companies to police user-generated material. The human rights consequences of private entities controlling the internet public sphere have become more prominent as a result of this policy shift. There are two major issues at stake from the standpoint of free speech. First, private actors governing individual speech, public discussion, etc., are not directly subject to human rights legislation, which puts freedom of expression at risk. Secondly, without proper protections for human rights, this private system of content control is encouraged and legitimised by EU policy measures that aim to tackle unlawful information on social media platforms. Human rights law's "strictly necessary" and "proportionate" criteria are undermined by EU regulations, which lead to a regulatory incentive for over-removal. Because Facebook is both a private corporation

and a public arena, it serves as a crucial point of access to information, which presents a human rights concern. The correct regulatory reaction to Facebook's influence on human rights is just as tough as finding the proper metaphor to describe the company (Jørgensen, 2013). Facebook may not have an editor-in-chief or be subject to media regulation like conventional media businesses, but its massive user base gives it the same influence. Although Facebook is widely used and considered a public utility by scholars (Balkin 2017; Plantin et al., 2016; Van Dijck et al., 2018), it is still a privately controlled space and a legally recognised commercial service that has the freedom to decide what is and isn't allowed. Facebook may claim to be a worldwide community, but in reality, its rules and standards are set by businesses, and its members have little say in the matter (Gillespie, 2018; Klonick, 2018; Suzor, 2019).

Using human rights norms as a framework, they examine these problems and provide solutions in this research. To ascertain the level of protection of users' human rights within a certain social domain and to guarantee that state regulation and business activities are in line with and safeguard human rights standards, a human rights-based approach is used when assessing state regulation and corporate practices. Although this viewpoint on internet policy has been discussed before (e.g., Wagner et al., 2019; Kerr et al., 2019), this study adds to the existing literature by placing the EU model of social media company governance within a global human rights framework and drawing attention to its shortcomings in safeguarding freedom of expression. The European Union's (EU) robust dedication to human rights, as outlined in the EU Charter for Fundamental Rights and Freedoms and the European Convention on Human Rights, makes the EU model an intriguing case study, even though it is just one of several possible models of government (compared to, for example, the American "hands-off" and the Chinese "hands-on" models).

## 2.2 LITERATURE REVIEW

Koltay, A. (2022) examined that the once-established method of public communication has been completely disrupted by social media platforms. This area has undergone a paradigm change, as anticipated, due to the proliferation of the public Internet, which began thirty years ago. Outside of the traditional media, anybody may now express their viewpoint for little to no expense, and it will become recognised and debated by others. Given the nature of the Internet as a technical platform, it is reasonable to assume that gatekeepers, serving a similar purpose to those in the past for traditional media, will be required to moderate access to this form of mass expression and its vast amounts of information. Service providers like ISPs and server hosts have largely supplanted traditional businesses like newsstands, post offices, and cable or satellite providers. No one could have predicted, however, that the new guardians of online communication would be more than just passive receivers or keepers of data; they would actively shape the communication process by determining which user-generated content they found objectionable and which content, out of all the potentially accessible content, is shown to specific users.

Szinek, J. (2022) provided an in-depth analysis of the proceedings from the Ferenc Mádl Institute of Comparative Law's conference on the subject of "The Impact of Digital Platforms and Social Media on

the Freedom of Expression and Pluralism," which took place in Budapest on November 23, 2021. Two sessions and one plenary are covered in detail in this conference report. Organised by the Central European Professors' Network, the symposium was a part of a series of conferences. Some thirty-four academics from seven nations in Central Europe—Croatia, the Czech Republic, Hungary, Poland, Serbia, Slovakia, and Slovenia—are actively involved in this network. Four categories were established by the Central European Professors' Network to categorise extensive worldwide scientific studies. One of these study groups, simply called the social media study group, had its results presented during the conference.

Oozeer, A. (2014) explained the definition of free speech and the methods by which they communicate have both been profoundly altered by recent technological developments. To fulfil their development objectives, governments should prioritise giving universal access to the Internet since it is becoming an increasingly important instrument for people to exercise their right to freedom of speech. There has to be a rethinking of where free speech ends because of the serious effects that the Internet and social media have on personal privacy. Criminal cases within the framework of online social networks are examined, and the author takes a look at the problem of Internet providers' culpability. The topic of what constitutes offensive speech and whether all instances warrant prosecution arises in light of the growing prevalence of responsibility for remarks expressed via online social networks. By reviewing precedents set by several Commonwealth courts, this research makes an effort to address such concerns.

El Hajj, M. C. (2019) determined new possibilities and threats have emerged with the rise of digital media. As a result, the traditional power structures in society have been changed, and the communication hierarchies have been flattened. Thanks to a plethora of modern technology, everybody may now participate in public discourse. Consequently, challenges to free speech are growing in number, even if they may be seen differently. This qualitative research discovered that current communication systems are threatening human rights and democracy, based on interviews with notable social and political personalities. The results illuminate the methods used by some evildoers who want to stifle free speech, make journalists feel unsafe, and infiltrate democratic online forums via violent means. Amidst the animosity and division, many are talking about the dangers of social media. In light of the importance of raising awareness, regulating and preventing the impact and scope of e-violence, and fostering freedom of speech, some techniques and regulations are proposed. The vicious cycle of violence must be broken by the equally vicious cycle of non-silence and action.

Kouroupis, D. K., & Vagianos, D. (2021) explained dealing with the problem of how the new digital age's powerful internet platforms and social media affect personal privacy. Consequently, in light of the fact that Facebook and Twitter suspended Donald Trump's accounts, there are valid concerns about the preservation of basic rights, like the right to free speech, in the digital sphere, and about the practical and organisational obstacles to achieving privacy standards. This study seeks to show how to balance individual rights, freedoms, and interests against the difficulties brought about by technology evolutions by comparing the legal frameworks of Europe and other countries that deal with free speech. In addition, among the most significant goals of the European Commission for 2019–24 is "A Europe fit for the digital age," which encompasses the promotion of research and technology within a digital society that is



open, democratic, and sustainable. As a platform for both business and culture, social media is crucial to create a level playing field in the digital economy. But how far they go in infringing on digital liberties is debatable. Additionally, their power and operations are ambiguous and even poorly defined. Thus, this research aims to provide practical responses with regards to internet governance concerning digital privacy consolidation and the employment of technological tools such as artificial intelligence.

Lanceiro, R. T. (2022) described a few of the challenges that have emerged from the growth of online communities and social media concerning free speech. Some commentators argue that these challenges require us to revisit free speech in the current media environment. They begin by stating some preliminary points about the right to free speech to support this position. They then examine what these new forms of "information society" and digital context mean for free speech in the 21st century, especially the extent of sustained censorship practices that have emerged over the last decade, specifically, online harassment, "flood information" practices, "fake news," and limits on free speech in social media and other online spaces. They propose that as a protector of fundamental rights, the State should regulate this new digital information reality to reduce the threat it poses to individuals or groups while recognizing the importance of free speech protections.

Lanceiro, R. T. (2022) considered "sometimes" the rise of social media has been celebrated as a gift to democracy, particularly with its promise of greater opportunities for open dialogue, democratized access to information, and alternative citizen engagement. Meanwhile, several content control measures have been fuelled by the fact that social media have made it easier to disseminate unlawful material and incitement to hatred, violence, or prejudice. From the standpoint of free speech, this change presents two problems: first, the government does not protect citizens' rights to free speech; and second, many EU policies promote and endorse this privatisation of human rights protections. They ask, based on research into Facebook users' perspectives in Denmark, can social media giants like Facebook strike a balance between different human rights concerns on their platforms, especially when it comes to free speech? This research's analytical approach is a human rights lens, through which they examine the aforementioned difficulties. They provide some suggestions for the future based on the UN human rights system's most recent findings.

Mazúr, J., & Patakyová, M. T. (2019) contributed to the ongoing discussion on how to regulate social media platforms (SMPs) in light of its focus on Facebook. Much of the conversation in this area has been fueled by a number of scandals (including the one involving Cambridge Analytica), all of which have drawn attention to the well-established concern about Facebook's responsibility. In light of the controversy and the long-awaited widespread adoption of the EU's GDPR, Facebook took many steps to address the issue on its platform. These included making it easier to track advertisers and giving users more control over their personal data. The German Bundeskartellamt was the primary agency that investigated Facebook for violations of competition law. The issue that remains after considering all the regulatory options is whether a sufficiently effective framework has been devised for keeping the SMPs responsible. Issues with data management and privacy, the influence of platforms on political processes, and associated monopolistic positions are some of the accountability concerns that SMPs are now facing,

and they address these in the study. Platforms are designed to fulfil commercial goals while inflicting considerable negative externalities on society; this is the unifying denominator of all concerns, as they have determined. This is in addition to examination of the platforms' responses, or the self-regulatory activities taken by them between 2017 and 2018. They also pay close attention to the assessment of competition law as a tool for controlling certain features of the platforms, particularly after the Facebook ruling by the German Bundeskartellamt.

Tereszkiewicz, P. (2018) discussed the methods used to control and hold online platforms accountable, with an emphasis on the EU's stance. It shows that the legal and academic understanding of platform liability in the EU is shaped by the requirements of the EU Electronic Commerce Directive 2000/31 on the liability of suppliers of services to the information society. Afterwards, two strategies to platform liability are recognised and examined in light of academic works and legislative developments: First, there's the concept of digital platform liability guidelines, as seen in the Discussion Draft. The EU Package Travel Directive 2015/2302, for instance, has sector-specific requirements that heavily regulate digital platform-based business models. The two methods are compared according to how well they can motivate lawmakers to take action.

### 2.3 OBJECTIVES OF THE STUDY

- To examine the significance of digital media platforms in promoting and facilitating freedom of expression in the modern digital era.
- To analyse the legal frameworks governing the regulation of digital media platforms and their impact on free speech.
- To assess the extent of accountability and liability imposed on digital media platforms for user-generated content.

### 2.4 METHODOLOGY

With a secondary data collection approach, this study will inquire into the contribution of digital media platforms to the protection of free speech as it relates to liability and accountability. Secondary data will be sourced from previously conducted research, comprising peer-reviewed scholarly research, government publications, reports, policy papers, and trustworthy websites. In order to verify the identity of individuals, they compile data from many online sources, including public legal databases, electronic libraries, and web browsers.

The study of the interplay between digital communication, freedoms, and legal responsibility will also make use of a qualitative research technique that is based on an analytical and interpretative approach. In order to better understand the frequency of these regulations and how they apply to regulating user-generated comments among un-platformed news, the researcher triangulates data by reviewing national and international legal criteria that may regulate digital media and freedom of expression.

Digital media platforms' responsibility for regulating and controlling user-generated material is examined via the use of case studies, adjudicated judgements, and statutory study. As a result, the law and its possible supportive or restrictive functions in regard to digital expression may be better understood via this study. In order to draw findings and provide policy suggestions, the researcher will methodically organise, examine, and analyse the secondary sources.

## 2.5 DISCUSSION

With the expansion of online communication tools in the contemporary age, the notion of free speech has taken on a new meaning. Online communities, particularly social media platforms such as Facebook, Twitter (now X) and YouTube, have developed into prominent venues for political discussions, grassroots organizing and news sharing. However, as these online spaces have grown, new issues have arisen related to accountability, regulation and user rights. The digital age has presented a variety of controversial legal and ethical questions, of which the balancing act of protecting free speech while also curbing harmful or illegal speech is one. The legal and social work professions need to engage in a social responsibility and human rights perspective to evaluate the freedom of speech online.

Social media has expanded opportunities for some disaffected people to participate in civic life while also creating an organic space for ideological extremism, misinformation, or hate speech to permeate. The involvement of far-right organizations and terrorist activities on social media platform was an idea we consider in previous studies to suggest that, in the absence of any controls, freedom is quickly turned into a weapon against the values in democratic society. The way to enable all users to utilize the platforms safely and equitably, after all, is regulation—not restriction on the expression of things that charge the democratic process with parity of respect.

The European Union, and other global organizations, are more frequently emphasizing the use regulatory infrastructures to hold digital platforms accountable for content that is user-generated. An unprecedented global regulatory framework geared to increase transparency, data privacy, and moderation of content is the General Data Protection Regulation (GDPR) and the Digital Services Act (DSA). Nevertheless, these structures can be unsettling concepts of censorship and overreach of companies moderating online conversations that these regulations aim to protect. The struggle is determining how to suitably develop regulations to hold harmful content accountable that conform with the human rights frameworks principles of proportionality and necessity.

Private enterprises like Google and Facebook will have different interests, because they factor both into facilitating an individual's communication and decision-making about their online behaviour. Because the policies that frame how moderation of content occurs is vague and inconsistent, and are driven by algorithmic practices and profit- generating ventures, there may be bias in enforcement/censorship of legitimate goods. This makes one wonder should these entities be liable for the user generated content or responsible from their actions as a go-between? In the U.S., the "hands off" stance, guided by the

Communication Decency Act/Section 230, contrasts in comparison to the EU (European Union) stance, which more directly enforces regulation on the matter.

Based on the findings from the streaming data in this study, there is not too much or not enough moderation of digital media. Therefore, for an answer to support the longest-term sustainable solution, we must find a balance between accountability while under clear norms of standards of transparency and governance for digital platforms. The safety of personal expression and community should be reinforced by elements of digital literacy, appropriate behaviours online, and participation in their governance.

## 2.6 CONCLUSION

The study suggests that in today's communications, digital media act as a vehicle for unmitigated expression and for managing user behaviour on the Internet. People are freely able to express opinions and join discussions around the world on digital platforms; however, there are challenges to identifying the actors (or parties) that are engaging in harmful practices. The study promotes the idea that there is a politicization of the democratic ethos and human rights from over-regulation, or, a lack of regulation on online communication. Thus, they need to find a middle ground to promote transparency where there is respect for free speech while also providing recourse to harmful behaviours. They must foster digital spaces where all participants feel safe and valued; therefore, focusing on digital literacy, establishing acceptable regulatory standards, and holding the platforms individually accountable for harm. Overall, it could be suggested that the future of digital communication in the twenty-first century will depend on how well they deal with the challenges of having simultaneous freedom and responsibility.

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