

## Freedom vs. Safety: The Efforts to Regulate Social Media

Raima Ahmed

Social media has become one of the dominant forces by which people communicate, share information, and engage with those around them. While social media platforms offer a space for expression and connection, it also raises significant concerns regarding the spread of misinformation and offensive content. Governments are faced with the daunting question of how to regulate these platforms to protect public safety and prevent the spread of misinformation. This burden becomes more complex by the fundamental right to free speech guaranteed under the First Amendment. Government censorship and regulation of social media complicate the critical balance that must be maintained between public safety and misinformation control, alongside the fundamental right to free speech as guaranteed by the First Amendment. Achieving this balance must be done by considering legal, social, and historical factors cautiously. Although the government is responsible for ensuring public safety and preventing the damage caused by misinformation, overregulation or censorship could lead to the suppression of actual free speech. Therefore, regulation is essential to keep misinformation in check, but not at the cost of undermining the constitutional right to free speech.

Social media has undeniably altered the way that society communicates, from the way people read news to the way people argue politics and engage in social movements. Facebook, Twitter, and YouTube are now essential platforms for people to mobilize themselves around important issues. This widespread reach of social media is also a breeding ground for the spread of misinformation, which can cause a huge impact on viewers. During the 2016 Presidential Election, misinformation, foreign disinformation, and fake news on social media worked to undermine the democratic process. False news spread through mediums such as targeted ads,

fake accounts, and viral posts. Members of the legislature then presented bills such as the Honest Ads Act of 2017 which was aimed at bringing transparency in online political advertisements. It addressed concerns about foreign interference and hidden agendas in virtual political discourse. These efforts at political speech regulation, however, are aimed at bringing attention to the bigger issue of balancing free speech and censorship with the dissemination of misinformation. The sheer volume of content on social media makes it effectively impossible to fully regulate, so it is all the more difficult to balance public safety with safeguarding free speech.

Regulation of social media platforms is a challenging balancing act of free speech protection under the First Amendment when considering the government's responsibility to maintain public safety and prevent harm. While the First Amendment provides a right of free speech, it is not entirely absolute, particularly if speech could pose a threat to public safety or order. The U.S. Supreme Court long ago set boundaries for restraining speech when it threatens a "clear and present danger" to national security. This is exemplified in *Schenck v. United States* (1919), where the distribution of anti-draft pamphlets during World War I was deemed dangerous to the war effort. The extent to which the definition of a "clear and present danger" exists is unclear. This principle was refined in *Brandenburg v. Ohio* (1969), where the Court decided that speech could be limited when it tends to provoke imminent, lawless action. These cases are of extreme relevance today, since the social media viral sharing of harmful material actually raises issues of whether or not it has the potential to be dangerous for the public. For instance, during the COVID-19 pandemic, there was exponentially more disinformation about the virus and about vaccines, causing distrust in public health measures. Such material may hinder attempts at public health and cause harm. While these problems acknowledge the risks of unfiltered internet speech, social media regulation has to be carried out with caution not to violate free speech.

Excessive regulation would ultimately suffocate political speech, silence dissent, and restrict the liberties guaranteed by the Constitution. On the other hand, permitting risky content to spread without regulation could provoke violence and destabilize societal order. The globalised nature of social media makes this no easier to resolve, with offending material published in one country able to spread and harm users elsewhere. Thus, retaining free speech is a continuing issue that must be weighed against the evolving role that internet sites play in public discussion.

Social media regulation also raises growing questions regarding how much authority private companies should wield over content, especially since the platforms are also forums for public discussion. Unlike other media, social media platforms are private entities with the power to control what can and cannot be uploaded to their sites, typically pitting corporate interests against public rights. Social media giants such as Facebook, Twitter, and YouTube have faced criticism in recent times for permitting hate speech, extremism, and misinformation to spread on their platforms, often failing to censor such offending material in a timely manner. At the same time, the same platforms have also been accused of censoring material that violates their own guidelines. Twitter, in 2021, banned President Trump in perpetuity for inciting violence following the riot at the capital, fueling arguments on whether or not it was evidence of overreach and censorship. Critics resent that social media platforms are undermining free speech through shadow-banning, blocking, or censoring others and ideas from their platforms. Section 230 of the Communications Decency Act, which provides immunity to online platforms for content posted by their users, is also a center of debate. In general, it makes it so that other entities aren't legally held liable for other people's actions and statements online. In this way, Section 230 shields websites from being sued for user-posted content, allowing them to monitor content without fear of lawsuits. However, immunity under Section 240 has been questioned.

Some believe that platforms are responsible for facilitating damaging material, particularly because algorithms tend to amplify misinformation. However, intense regulation online tends to suppress open debate. This dispute exemplifies the tensions between private corporate interest and free speech amongst citizens.

Social media is now one of the most influential instruments in shaping political views, but it serves to perpetuate political polarization by creating “echo chambers” where users are permanently exposed to information that reflects their existing views. This is largely due to algorithms favoring content from previous user interaction and engagement, amplifying posts, articles, and opinions similar to what they have previously liked or commented on. As a result, users will be less exposed to differing ideologies. Over time, this may cause individuals to be unable to understand or even debate opposing opinions. Social media warps public discourse, and makes meaningful political conversation difficult to take place. This also raises a very pertinent question: should social media platforms be held responsible to produce a more balanced flow of information, or would that be a violation of the fundamental right of free speech? This argument becomes more complicated when considering the aspect of misinformation. Events such as the Presidential Election is but one instance of the ways in which algorithms can be employed to magnify politically slanted news or disseminate false news, which might ultimately have an effect on elections and politics. These issues raise the ongoing dilemma of how to preserve free speech but resist the harmful impact of political polarization that is fostered by the algorithm.

Social media websites are now effective mediums for social movements, providing activists with the potential to connect to a worldwide audience and perceive mainstream media. Social movements such as Black Lives Matter have thrived on these sites, mobilizing marches

and bringing into public discourse concerns that might have been neglected by traditional media outlets like journalism. This transformation has raised legal questions, particularly about governing political speech on such platforms. When social media companies censor or suppress posts concerning social movements, they are condemned for breaching the right to free speech. The First Amendment protects individuals from censorship by the government, but this is tricky to apply when it comes to private companies. The question is, then, whether social media platforms have a responsibility to ensure that political speech, especially related to social movements, is not suppressed under the guise of moderation. The challenge lies in finding the balance between regulating harmful content and allowing users the freedom to express their views, particularly when these views challenge political or corporate interests.

Since social media platforms have become initial points of reference for information, existing legislation has been unable to match the speed at which misinformation spreads. Section 230 provides immunity for websites on their users' postings, but it has been under fire for allowing unchecked propagation of misinformation and hazardous material. While there are legislators who feel that the site must be made more accountable, such as by giving stricter penalties for failure to remove violent or offensive material, such bills are unpopular because of concerns about overreach and curtailment of free speech. It is important to make sure that regulation will not impair people's freedom of expression. Across the world, countries like Germany and Australia have been more aggressive in the fight against disinformation. Germany's NetzDG requires websites to remove hate speech within 24 hours or face a fine. Australia's Online Safety Act requires websites to remove abusive content. These may serve as a model for U.S. legislation, but it creates fears of over-censorship, and whether or not the same could be done with loss of First Amendment Freedoms.

In conclusion, the regulation of social media is a delicate balance between controlling harmful content and upholding free speech. While social media platforms provide a space for connection and activism, they also just as easily facilitate the spread of misinformation and political polarization. The government's role in regulating these platforms must ensure that efforts to protect public safety do not undermine fundamental freedoms as defined in the First Amendment. Ultimately, finding a solution that protects both free speech and public safety remains a challenging and ever-evolving task.

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