The Law and Social Media: Striking a Balance between Freedom of Expression and Responsible Usage.

Hari Parimkayala

Introduction

To effectively discuss the title 'Striking a Balance between Freedom of Expression and Responsible Usage,' this essay will first define and discuss 'freedom of expression,' as outlined by Irish law.

Next, it will look at the phrase 'Responsible Usage.' Why is freedom of expression being restricted in the interest of upholding public order? Whose responsibility is it to monitor speech?

Finally, it will scrutinize the issue presented in the essay title; finding an equilibrium between allowing freedom of expression, and regulating what is posted. What benefits are posed through the censorship of the media? How effectively is social media regulation done?

This will be done through the inspection of multiple factors regarding restrictions of freedom of expression, demonstrating the difficulty of exercising a balance between it and the law. I will also investigate social media policies, and how they appoint responsibility of posted content.

Development

I will firstly break down the relevant laws.

Article 40.6.1.i of the Irish Constitution defines freedom of expression as 'the right of the citizens to freely express their opinions and convictions.' Mass communication medias, such as the radio, 'shall not be used to undermine public order, or morality, or the order of the State.'

Responsible usage is, from my understanding, the way social media users and companies regulate what is expressed, so as not to neglect personal values or offend others.

The Irish Human Rights and Equality Commission Act 2014 establish these restrictions as necessary in the interest of national security, preventing crime and protecting health and morals.

The Prohibition of Incitement to Hatred Act 1989 contains the Irish law on hate speech. It is illegal to "publish threatening, abusive or insulting material" that has the potential to discriminate against others based on race, sexual orientation, religion, nationality and more. This communication can be verbalized, written or broadcast. Hate speech is exempt from the right of free expression.

Let it be clear that the act only criticizes the publishment of the material. In theory, social media platforms are merely hosting the material. This is similar to US law, where the same idea is being used to justify non-accountability for harmful content.

It should also be noted that some say any belief can be categorized as 'hate-speech', should that belief be perceived as inferior or contrasting to one's own. This, I do not agree with. Regardless of how opposed one is of a belief, it should be tolerated on social media platforms unless it may incite crime. That said, I firmly believe that some sort of regulation on social media is required. To deny a person's conviction is to deny their right to free expression, however, to justify content that is blatantly discriminatory, exclusionary, or compromising of public safety, is not exercising human rights, but demolishing them.

This exemplifies a theme that will be customary throughout this essay: the act fails to expand on what constitutes as "threatening, abusive or insulting" material. Elaboration on this would allow for more protection of values.

Nevertheless, it can be argued that one is not within their right to dictate what is said by others. It is difficult to curb speech, particularly on social media: where a 2022 analysis by Kepios counted 4.74 billion social media users globally, when the offensiveness of content is subjective. This subjectiveness proves balancing free expression and responsible usage a difficult feat.

Now, it is important to understand why censorship in social media is seen as necessary.

The reason social media is censored is to protect. To protect valuable beliefs. To protect the young from the distribution of child pornography. To protect people from threats, leaked personal information and harassment.

Social media platforms have policies in place to restrict and abolish content they feel are inappropriate or offensive. The potency of these policies is controversial, as companies can manipulate what goes viral, what disappears, and what is

allowed on the site, such of which can be tailored to increase a company's economic benefit.

Personally, I feel that social media bearing complete authority over something so impactful is problematic. As I see it, social media companies could choose to implement restrictions exclusively when it suits them. Since their policies deflect responsibility of any content posted, there is no gain for them to show users anything except material that fuels their damaging views.

The proficiency of regulating social media has been proven; lesser moderation increases extremist content, and social platforms like 8chan and Telegram confirm this. Depriving groups of a place for such activities to thrive can prevent their ill-intentions.

Some policies include the ability to block users from availing of their services entirely. This policy was implemented when the U.S. President Donald Trump was blocked on platforms Twitter, Facebook, Instagram and more in 2021, following the U.S. Capitol riots. It sparked several discussions about free speech, censorship, and the lack of action taken from Twitter to ban Trump sooner, given his constant violation of community guidelines.

The ongoing inconsistency of implementing guidelines, epitomized here, is source of criticism for many social platforms. YouTube too was condemned for its leniency on their top creators, who increase platform revenue.

This raises a key question; is it the responsibility of the individual or the social media platform to regulate content?

Twitter's terms of services state that "All content, whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such content. We may not monitor or control the content posted via the services and, we cannot take responsibility for such content." They simultaneously claim the right to remove content they feel is unlawful or promotes harassment.

YouTube's community guidelines are similar: It criticizes the posting of hateful content that is discriminatory or is intended to promote hatred, and will remove content that is such.

Whilst it is claimed that they will not tolerate offensive content, failure to expand on what stays and what goes makes filtering posts difficult. Along with that, the company holds more control over publicization of posts. I, therefore, see the company as more liable to moderate their platform efficiently.

Linking this in to my previously made point – where ad-driven social platforms are designed to fuel and support one's interests; The issue arises with the

algorithms used to filter the content. As in, the way social media assembles user feeds, through analysis of what content they positively respond to.

The operations of such algorithms are vague, and often ineffective. They are designed to target key-words, and generally fail to identify tone, context, or language correctly. This is relevant in the discussion of striking the balance. Free expression and an individual's responsible usage of social media is highly affected by algorithms, since the ineffective operations performed by said algorithms amplify the wrong voices, which contradicts equal free expression and boosts harmful ideologies, and tailors content to encourage one's derogatory beliefs. The inner-workings of such algorithms require more transparency.

Conclusion

It is indeed a complication to regulate expression online, even more so to establish an equilibrium between the right to freedom of expression and responsible usage. Social media companies are in control of what is seen and what is not, and therefore play a substantial role in the incitement of violence and hatred; the very reason pure free expression on social media is viewed as a hazard, and why a balance needs to be placed to begin with. Thus, the predicament with social media platforms is the dominance they have in restricting expression, especially considering the lack of incentives for speech regulation, and their consequential role in incentivizing crime.

Consider why freedom of expression is so valuable. Within a democracy, like Ireland, the capability of the people to express thoughts, opinions, ideas, and feelings is indispensable to develop a functioning, satisfactory society. A democracy is absent without the voices that legitimatize its definition.

It is intrinsic to challenge yourself to understand other views, to mature as a society.

Regardless, where safety and flagrant discrimination is present, I do not believe such views should be granted a platform.

Given the importance of this right, it is essential that social media platforms give more attention to what is popularized, and how they filter posts.

Reflection

I admittedly spent ages inspecting the title, and confirming the approach I would take.

During research, I honestly felt a little overwhelmed with the amount of information to take in. Processing what was useful was difficult, and fitting them into the essay whilst maintaining coherence and flow was challenging.

I find it hard to express my thoughts into writing, so this essay brought me out of my comfort zone.

Reading back on the full essay was the most enjoyable part; being able to appreciate the work I put in, regardless of what the essay's future holds.

I'm glad I authored this essay, though. I learnt a lot about the bigger issues surrounding social media I use every day. People taking the time to educate themselves on such a complicated discussion lay the foundation for the solution to it.

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