

**Journal of Law & Social Studies (JLSS)**

Volume 5, Issue 1, pp 21-29

[www.advancelrf.org](http://www.advancelrf.org)**Social Media: A Boon to Human Rights?****Ayesha Jawad****(Corresponding Author)**

Assistant Professor,

Department of Law, Kinnaird College for Women.

Email: [ayesha.jawad@kinnaird.edu.pk](mailto:ayesha.jawad@kinnaird.edu.pk)**Shahzeen Jamil**

Lecturer,

Department of Law, Kinnaird College for Women.

Email: [shahzeen.jamil@kinnaird.edu.pk](mailto:shahzeen.jamil@kinnaird.edu.pk)**Nazar Hussain**

PhD Scholar,

Department of Law, Times Institute, Multan.

Email: [advnazar770@gmail.com](mailto:advnazar770@gmail.com)**Abstract**

*In modern digital times, social media has progressively changed society's mind. Though social media has great advantages and has been used as a medium to promote freedom of speech, it is also being used as a tool of oppression and violation of human rights. This paper will discuss the violations of human rights through social media in three aspects: the right to privacy, hate speech and trials by media. This paper seeks to explore how social media has adversely influenced and tilted the balance of power in the minds of the people. Several inherent risks are potentially involved in social media virtual communities and groups that are not adequately addressed concerning widespread hate speech. Social media has also impacted courtroom decisions and has introduced the concept of media trials. Moreover, this paper will focus on the right to privacy and its infringements via social media. Social media bears great responsibility to regulate its content and protect such human rights.*

**Keywords:** Social Media, Human Rights, Right to Privacy, Hate Speech, Media Trials**Introduction**

Social media is the platform that governs the rational and critical evaluation and thinking abilities of the person that simultaneously affects and triggers the social decision-making abilities of the individuals and communities. It is the inherent values of rule of law that provides contested concerns about the relationship between the platform and its existing users. With increasing time, it has been considerably noticed by many of the intellectuals in their practical experience of the usage of social media and the happening of real-life circumstances and certain social events, that there has been a considerable shift and change witnessed in the discourse of law. The expectation gap for legitimacy, fair presentation along with online governance of shared social spaces is increasing in the absence of

relevant and practicable law, which also threatens the existence of the democratic situation nationally and internationally.

Furthermore, it has been viewed by the regulators of social media themselves that some of the illegal or unlawful organizations use their shared online space at the same time to facilitate wrongdoings that resulted in physical or financial damage to the people at large. It was due to the identification of these events on online social forums that these platforms were seriously criticized by many of the notable personalities of the world concerning their failure of developing an informed and effective mechanism to invite user input and consensus on its governance process. The extent of the influence that social media platforms and other digital intermediaries exert over the social existence of individuals seeks to hold them to adequately account for these values. The performance of the platforms in the absence of basic procedural safeguards calls for an appellate process that simultaneously offers independent reviews and fair resolution of disputes.

With this debate, the existence of cyber laws in the present times has become extremely subjective with a drastic emergence of crimes due to cyber systems over the last decade. Today numerous hate speeches against different political or religious sectors are being actively uploaded and simultaneously shared on social media to tempt the religious or political sentiments of one community. These kinds of unethical practices are performed consistently by the western media which significantly affects the religious sentiments of one community to a much greater extent (Macdonald, Correia & Watkin, 2019). It is not due to the up gradation of the internet or technology, but it is the convergence of various digital and social platforms that forced the individuals or users to stick to it. It is considered a religious victimization of a certain sector or community of individuals. Today an individual or group of individuals in one part of the globe performs such acts of religious intolerance that provoke or tempts the individuals of another community in other parts of the globe.

Despite multiple warnings and uncountable statements of opposition and condemnation by the top office of the political governments, these sectors do not refrain from their activities and try to influence the mindsets of the people. The existing cyber laws only condemn hate speeches and do not actively play their part in reducing the circulating hate speech on social media platforms. It is simultaneously due to this non-serious attitude and implication of the existing cyber laws that the question of online governance and the authenticity of online governance is raised. The existing procedural standards for the system of governance are not up to the mark and perform poorly on these measures. The basic and preliminary system of governance needs to be at least legitimate and due to these severe reasons; these social media platforms perform poorly. Even though such organizations are expressly forbidden from using social media platforms due to their community standards and guidelines, they continue to use false identities and operate undercover.

Due to the current state of cyber legislation, particularly in Pakistan, considerable efforts are required to address the issue of cyber terrorism.

## **Social Media**

"Social media" is defined in this paper as a means of producing, consuming, and exchanging information (Davis, Deil-Amen & Rios-Angular, 2012). Undoubtedly, social media serves as a medium of effective and efficient communication however, how they are or should be governed considerably matters a lot as noticed by the Katz and Redberg (Redberg & Katz, 2016). In the modern era, social media is considered the host of millions of people and provides a platform for various debates on any topic of their choice or preference. From the era of chat rooms and messengers, the platforms of social media have expanded and ameliorated in various ways such as new sites and apps including Twitter, Instagram and Facebook. Unquestionably, these social media forums have raised awareness of rights, among the public including but not limited to the right to free expression, speech

and many more such alike and have contributed tremendously to a vast exchange of information. However, such awareness and exercise of the rights do not come without the accountability and liability that how the exercise of these rights affects the public at large. The collective decisions made in private online platforms have real-time implications on the general culture of the public and the critical thinking abilities of individuals.

Social media caters to different communities through different platforms, which ultimately affects shaping the medium of communication and thinking among its users and simultaneously identifies the extent of the shared information to the several participants of the community. As noticed, the current governance process is molded by multiplex socio-economic and socio-technical cultures (Murray, 2017). Furthermore, these communities selectively enforce this process, but the terms of service are clearly stated in neutral terms, allocate a great deal of power to its operators, and are written in a systematic way that potentially protects the varying interests of the providers. With time, the increasing role of different social media platforms clears any air of doubt as to how much life of individuals across the globe are efficiently governed by these platforms. If the top-level material and considerable decisions are made according to rule of law then the lower-level governance issues will prove to be an effective strategy for systematic governance of digital media platforms. These platforms do not own the activity of their users with third parties on their platforms by limiting their governance extent by portraying themselves as a neutral carrier of content and facilitators of communication.

With the implementation of certain policies and regulations, these platforms have the potential to track and shape the activities of the users to meet conflicting demands of various community groups such as advertisers and ultimately the government. It has greatly been summarized that platforms have adequate technical ability along with legal capability to effectively control and monitor the performance and operations of their platforms but have no moral or legal responsibility in contrast to what users do on these platforms (Rubenstein, 2018). For digital platforms, it is generally believed that they are also very secretive in their practices and have their forces of practicing content while simultaneously enforcing their terms of use. It is generally argued among various international institutions to hold the intermediaries accountable concerning their internal policies and procedures in the context of procedural legitimacy and evaluate whether they effectively function about freedom of expression. Unfortunately, the legitimate concerns of both the users and platforms have largely been unaddressed.

The daily usage of the internet has become a routine for most people across the globe. Today every next person that crosses our path has a digital presence as well. Social media affects different brain functions in different ways. With the growing increase in the number of users on different social media platforms, it has harnessed huge interest and growing concerns among senior policymakers due to the serious impact it is causing on our lives and psychological well-being (O'Reilly et al, 2018). The imbalance created concerning excessive usage of social media and the negative impact it is causing on the minds of the users has been a question of serious concern for policymakers along with the users themselves. For instance, a single inappropriate video that religiously hurts and affects the sentiments of the people uploaded on social media platforms triggers the religious sentiments of a community or sector of religion in another part of the globe. Uploading of any unlawful or unethical content on social media against a targeted group, significantly triggers the existing information or knowledge in the mental filters of the people and a definitive image or statement for another community is established or simultaneously portrayed in the minds of the affected community. The emergence of digital technologies in the present technological landscape is playing a central role in the present times with more than 90% of the youth having access to the latest smartphones with unlimited access to several digital platforms on numerous devices and more than 85% have access to laptops or desktops in their homes (Gutub, 2015).

While offering considerable benefits and opportunities for people across all walks of life, it is also posing serious mental health concerns in the minds of the young generation. At present, social media has become so embedded in our lives that many adults portray the behaviors of restlessness when unable to access their social media platforms which ultimately gives rise to Phantom Vibration Syndrome (PVS) among them and exhibits manifestation of anxiety due to cell phones (Coyne, Rogers, Zurcher, Stockdale & Booth, 2020). This PVS also induced negative social comparisons among youth concerning their accomplishments, abilities and appearances.

### **Freedom of Speech v Hate Speech**

As discussed in detail earlier social media is a vital platform to promote freedom of speech, yet surveillance and censorship have posed a great hindrance to the right (Bristol, 2016). The cornerstone of freedom of speech and expression is enshrined under Article 19 of the UN Charter as the right to hold opinions and seek, receive and impart information without restriction through any media forums. Hate speech is defined as a direct assault on the values of tolerance, inclusion and human dignity (Guterres, 2019). The interlink of freedom of speech and hate speech has raised many questions on various platforms. It is important to recognize that freedom of speech is not inhibited or restricted by addressing hate speech (Guterres, 2019) The ongoing debates on social media platforms then shape the discussion at societal and political levels (Ceron & Memoli, 2016). It has happened many times that an ongoing social media issue concerning any sphere of life is simultaneously discussed by the political representatives in their respective national constitutional assemblies of that country. It is quite true that social media has given voice to every other human being. It has been witnessed many times that social media texts provide an interesting source of information to easily and conveniently investigate or inquire about the opinion of other people on certain controversial topics and simultaneously provide deep insight for forecasting the outcome of potential elections or referendums. Social media monitoring also provides different levels of sentiment analysis of the masses along with providing relevant stances of the users concerning the expression of opinion about political candidates. Different political agencies and information gathering centers collect valuable data about different sources and opinions of people on social media and simultaneously formulate further strategies to handle the situation (Nicholson, Nugroho & Rangaswamy, 2016).

There are official handles of several political parties across the globe that have an adequate and considerable presence on social media platforms and consequently, these platforms have issued verified blue ticks to these handles for the effective and truest generation of content and dissemination of information. Social media platforms offer non-editorial production or systematic generation of content where alternative voices cannot be controlled or limited by significant and dominant media houses. People across different age groups enjoy these platforms due to these features. The several hate speeches portrayed through various social media platforms have large-scale implications concerning the lives of minorities in different regions of the globe. The groups of people involved in these unlawful or unethical activities sometimes cross their limits and engage in the brutal killing of minority people in their vicinity and simultaneously promote an air of religious intolerance (Bashir & Bhat 2017).

These acts of religious intolerance and religious hate towards one common religion awaken millions of people across the globe, but still, law enforcement and human rights agencies along with many social media activists or international bodies remain perfectly silent on these inhumane acts of transparent terrorism that significantly hurts the religious and social sentiments of the Muslims across the globe. It has been outlined in various speeches of the Muslim leaders of the modern world that it is untrue and unjust to categorize blasphemy under the banner of freedom of expression. It has been witnessed that these actions from certain online virtual communities result in serious and unlawful discriminatory actions by the respective governments of those countries that further marginalize the ground-level activities of Muslim populations in Muslim-dominated areas. The emergence of these

activities demands a heightened focus on online radicalization and the Muslim community feels extremely unsafe due to happening of these unusual events. Some communities of the digital media use severe unfair and unethical means to tempt or alter the religious sentiments of other communities and simultaneously induce and promote negative behaviors among them. The convergence to digital several gadgets was done to communicate with friends and family instantly and frequently, however unfortunately it is being used inadequately and inappropriately for stimulating religious behaviors (Robinson, 2019).

The social media handlers of these online communities do not effectively respond to potential risks inherent in different hate speeches and do not stop them by reporting the content to the standard community and operating procedures guidelines and rules. Muslim abuse on several digital platforms comes under the ambit of cyberbullying and the mindsets behind these activities have not only limited themselves to social networking sites but also actively use blogging sites along with online room chats and other different platforms to promote cyber hate and Islam phobia. Also, certain micro-blogging websites invite certain people or groups of people from different virtual communities that have a deep anti-Islam narrative (Lund, 2016). Overseas Muslims in these challenging times have shown their frustration at the lack of support available to Muslims suffering from online abuse. Such is the height of misery.

### **Right to Privacy and Social Media**

The Right to Privacy is a fundamental right recognized under the Universal Declaration of Human Rights (Article 12, UDHR) stating that no arbitrary interference will be subjected against any person. However, with the advent of technology and digitalization, the platforms the risk of invasion of privacy has increased as compared to print media (Barman, 2015). Unauthorized access to personal information and social media accounts of individuals is the most common form of privacy invasion in today's world. Informational privacy has become a hot debate in circles of privacy due to the scandals of the Panama Leaks and Snowden Leaks. Social media collects data and information through their website logs, search engines and through third-party apps which are mostly secretive mechanisms of collecting information; the users are unaware that as to the amount and ambit of their information and data collected by these platforms. Users are unaware of the nature of these user agreements and terms and conditions which leads to consent fatigue where users give consent without reading the agreements and having a proper understanding and knowledge as to the implications of such agreements.

The issue of the right to privacy is further escalated with the identified weaknesses in the regulatory mechanisms of cybercrimes and privacy laws. Social media users are classified as "consumers" under regulations including Rome I and Brussels I Regulations due to which users have to strictly adhere to the choice of law and forum provided by the owners of social media forums under their terms and conditions (Mills, 2017). Though the legislative frameworks exist at both national and international level, issues arise as to the jurisdiction which complicates the implementation and enforcement of such laws. Moreover, surveillance by commercial entities and state governments has led to further exploitation of information. Such information is sold off to state governments to monitor its citizens, trace criminals and for other administrative purposes. This also includes keeping a track of the locations of individuals. Few commercial entities sell such information to businesses and advertising agencies to benefit from user-generated content (Belapurkar, 2018).

Recently, the right to be forgotten, also known as the right to erasure, has been codified in General Data Protection Regulation, 2018 (GDPR) through the efforts of the European Union. This right was first introduced in 2014 in the case of *Google Spain v AEPD and Mario Costeja Gonzalez*. According to this right, any personal data must be erased immediately where it is no longer required, consent has been withdrawn by the owner or erasure is required under European Union or Member states'

statutory obligations. This entitles individuals to request search engines to remove or delist content linked to that individual's name. Though the right is not fully guaranteed, it is a much-needed initiative to protect the personal information and data of individuals. States like Serbia, Russia and Turkey have also established the same right under their respective national legislations.

## Media Trials

Recently the adverse impacts of social media on courtroom decisions have been witnessed which involves media characterization of certain political and non-political personalities (Van den Berg & Verhoeven, 2017). 'Trial by Media' is a term developed in the 20<sup>th</sup> century where the media itself takes the initiative of investigating the truth on its own which then simultaneously creates or develops a widespread perception of the individual in either the context of guilt or innocence before or after the verdict of the court of law (Fan & Lee, 2019). It significantly impacts the electronic and print media coverage concerning an ongoing trial that simultaneously generates the sense of right or wrong among the mindsets of the people. Several courts have been established at all levels for providing adequate justice in the stipulated time frame. Due to certain time issues in court proceedings along with significant delays in court hearings and verdicts along with decreasing faith in the judicial system, the media trials are supported by the public and are getting more prominent with each increasing day in developing countries. The reputation of any political or non-political personality along with any organization is significantly affected sometimes before the verdict of the court of law. Unfortunately, media trials have become increasingly dominant in developing countries which triggers and influences the mindsets of the people while forming a rational opinion. Due to frequent media trials airing on different satellite channels and platforms, the masses are losing faith in a court of law because the media has taken the driving seat and are the sole creator of the opinion maker and generator of public opinion. On the other hand, the media also uses significant resources to intervene in court proceedings while losing the spirit of the principles of 'innocence until proven guilty' (Haynes, 2016).

It is generally believed that unnecessary and undue hype of a potential civil or criminal case can simultaneously result in the portrayed image of the person as guilty. In the last two decades, the number of cases which have been affected by the overly-investigative media has risen. For instance, in the case of Casey Anthony, where the defendant was charged with the first-degree murder of her two-year-old daughter, where social media offered different interpretations of the defendant's life before the crime was committed and gravely infringed the right to a fair trial even though the defendant was found not guilty by the courts (*Anthony v State of Florida*, 2011). Concerning the availability of facts, electronic media trials are a violation of the International Code of Journalistic Ethics and can also ground for defamation and contempt of court (Ampollini & Bucchi, 2020). The practice of fair reporting should be consistently carried out by several journalists and private news broadcasting channels concerning the recording and publishing of certain facts and information. Although, it is also true regarding media trials that they are believed to be an imperative form of democracy. Social media has played a negative and excessive role in reshaping public conscience and fettering judicial processes and fair trials before criminals have even been tried by the courts (Yadav, 2019).

Moreover, Social media has posed a great danger to witnesses and evidence in a court trial. In numerous cases, inadmissible evidence, potential evidence or evidence excluded based on being far too prejudicial to the jury has been circulated on social media platforms. Not only such instances have negatively affected the jury and prejudiced the fair trial but have violated the rule of law.

Trials by media have another worrying factor of prejudicing the integrity of judges and jurors. Though the judges and jurors are not affected by the opinions of the public, however, the Anglo-Saxons believe that public posts especially on social media do impact the subconscious state of mind of

judges and jurors (Belapurkar, 2018). If media trials are controlled to exist, then this would directly portray the meaning of limiting the direct role of the fourth pillar of democracy.

## Recommendations

To address the issues of human rights infringements through social media, measures must be taken at both national and international levels:

1. Adoption of strong national legislation and policies on social media concerning the right to privacy, data protection, hate speech, incitement of violence, misinformation and disinformation.
2. Creating awareness and educating individuals in various sectors at all levels on the impact of social media on human rights and equipping them with knowledge and skills to enable them to report any such violations to appropriate authorities.
3. Educating social media users on media ethics and the responsibilities, social implications and risks attached to freedom of speech.
4. Enactment of international laws which protects the personal data of individuals from being illegally accessed and used by other states' governments.
5. Revision of definition and forms of right to privacy and its infringements which should include cross-border surveillance.
6. Establishment of a Committee and a commission under international law on data privacy with powers and authority to investigate and inquire into infringements of the right to privacy by Member States, international organizations, and other associations.
7. Effective moderation by social media platforms removes harmful content which may be a form of hate speech or violates the right to privacy.

## Conclusion

Though social media has advocated for freedom of speech, it has obvious fallouts. To truly protect human rights including rights to privacy and democratic rights, the laws regulating social media must be reformed without curtailing the freedom of speech. However, without any doubt, the balance between freedom of speech collides with the right to privacy and hate speech but effective monitoring may entertain this challenge in a better way. Social media must be monitored and regulated effectively to not fetter the judicial process, protect the privacy rights of individuals and eliminate any harmful content that may fall under the ambit of hate speech and violence. This can only be achieved by states taking measures at both national and international levels.

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