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Hate Speech and Social Media Censorship

The internet is an open platform for people all around the world to communicate and express ideas publicly. Prime areas for people to share and connect on the internet are social media sites such as Twitter, Facebook, and Instagram. However, this modern ability to communicate has not only given users the opportunity to post a selfie for their friends. People are now also able to share with others information that they may not have had the ability to circulate prior to the internet. This means that citizens have the chance to more thoroughly participate in and have knowledge of government actions. Students and professionals have better access to academic resources as well. Families that live long distances away can communicate with their loved ones with just the click of a mouse. Also, many social media users are productive in their online activities, and spread messages that contribute to causes, often through civic engagement projects. An example of the lader is GreenIters, an online presence that organizes people in multiple countries to help with environmental problems[[1]](#footnote-1). Normal people are able to organize donations and petitions on Facebook with ease, now. People are aware of causes, problems and initiatives now more than ever. They are also more able to access information in order to gain a better understanding of the world around them in general.

As in anything, though, with the good always comes the bad. While people are able to communicate about positive and productive causes and ideas so effortlessly in this modern age of social media, they also have the ability to spread harmful messages with the same amount of ease. Hate speech has become a prevalent problem on the internet, especially with the rise of social media sites in the past few years. Hate speech is defined as “speech expressing hatred of a particular group of people”[[2]](#footnote-2). While organizations like Green Peace and PETA can rally, spread messages and organize followers on Facebook, so can the Klu-Klux-Klan and Neo-Nazis.

In retaliation to the rise of hate speech online, many countries, such as Germany and China, have created laws to censor harmful messages on social media websites. In June of 2017, Germany passed the Netzwerkdurchsetzungsgesetz (NetzDG) law. This law requires internet companies, such as Twitter and Facebook, to remove posts that contain hate speech and the like within a period of 24-hours from the time the post is reported. Companies that do not comply can face a fine up to 50 million Euros.[[3]](#footnote-3) In Germany, there are already laws standing that make hate speech illegal. Specifically, Volksverhetzung is a concept in criminal law that makes illegal any act that “incite hatred against a national, racial, religious group” as well as “assault the human dignity of others by insulting, maliciously maligning an aforementioned group.”[[4]](#footnote-4) These laws, a subsequent result of the post Nazi and the Nuremberg trial eras, give the NetzDG law a legal basis in Germany.

China takes a comparatively harsher stance. The Chinese government, known for its restrictive laws, has banned the use of social media sites like Twitter and Facebook. Chinese citizens are blocked from the use of these sites, in order to completely stem the stream of information, both harmful and useful.[[5]](#footnote-5) Of course, in observing these laws, one should take into account that China has a track-record of implementing freedom-restricting laws. Therefore, the laws banning social media probably have less to do with censorship of hate speech than they do with controlling the information Chinese citizens have access to.

Few, if any, suggest that the United States should implement measures akin to what China has in place. Some do believe that the United States should follow Germany’s example, and pass laws that control and eliminate hate speech online. A suggested option follows the path of legislation that already effects broadcasting platforms such as radio and television. Through this option, the U.S. would pass legislation enabling the FCC to have oversite over social media websites. This would put the internet on the same level as broadcasting companies which, under the Communications Act of 1934, were given the mandate to operate “in the public’s interest, convenience and necessity.”[[6]](#footnote-6) In order to implement this type of oversight, however, one would have to liken the purpose of the internet to that of the radio or television. The internet is an interactive platform, though, unlike the others. The internet, social media in particular, is about posting content as much as it is about observing other peoples’ content. The FCC would have to put regulations on all social media users, not just a limited number of networks or broadcasters as it does with television and radio.

Another option is that the United States could join the European Union’s Additional Protocol on Internet Hate Speech. In doing this, the U.S. would have to outlaw the spread of racist material over the internet, insulting someone in a public way online, and making threats towards people due to their “race, national origin or religion.”[[7]](#footnote-7) Making illegal the last of the three listed would be easier than the former two, as it has more of a legal basis in the United States. Making a threat is already a crime in the U.S., as using one’s freedoms and rights to endanger or restrict another person’s freedoms and rights is illegal. The complicated part of convicting people who make threats over the internet is determining if there was serious intent behind the threat.[[8]](#footnote-8)

 However, despite the destructive nature of hate speech, the Supreme Court found in Matal v. Tam that it is unconstitutional to outlaw or censor hate speech. This means that the government can’t implement any law that would infringe on someone’s right to express themselves, even if they’re expressing hateful ideas, as even hate speech is protected under the first amendment. The United States is obligated to protect open communication, and unless the expression of one person’s right jeopardizes another person’s right (like when making threats), the government cannot intervene. Therefore, creating legislation of this nature would not fit the United States as well as it does Germany. This is because Germany has laws in place that comply with and create a basis for censoring hate speech online.

A more potent solution would be not doing anything at all. Instead of implementing laws that, despite the best intentions, would be unconstitutional the government should take a step back and let the public to censor themselves, thus allowing capitalism to sort out the problem. If the majority of social media users are unhappy with how Facebook, Twitter, Instagram or any of the other social media platforms handle hate speech, those companies will find a way to fix the problem in order to make their users happy. If the users remain unsatisfied, they won’t use the social media platform, which will cost the company money. Social media companies make money off of ads on their websites. Without users, though, these companies make no money. Therefore the company will conform and censor hate speech of their own accord, in order to make their users and advertisers happy.

 Hate speech is a prevalent problem on the internet today. Many legislators believe that the solution to this is enforcing legislation that censors the harmful messages of racism or bigotry. What they do not consider is that censoring hate speech still censors speech and restricts the right that the founding fathers thought important enough to list first in the Bill of Rights. By creating the first amendment, people in the United States are guaranteed protection of their right to speak freely and without fear of unjust persecution. While hate speech is harmful, it is not up to the government to censor. Facebook, Twitter and the like, as private companies have the right to limit how their websites are used. If the people feel a strong enough need to eliminate hate speech from these platforms, they will voice their discontent. Social media companies will censor the hate speech themselves, in order to oblige the majority of their patrons.

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