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Hidden Crimes: Freedom of Expression on the Internet

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ABSTRACT

At this particular time, we need to identify freedom of expression on the Internet in terms of concepts, places, importance, advantages, disadvantages, and its effects on our Arab and Islamic communities in the present. We also need to take a look at the laws pertaining to freedom of opinion and freedom of expression online, taking into consideration its vast prevalence during the past few years. What are the crimes that emerged as a result of using the freedom of expression online without any limits or boundaries? Is subjecting websites to surveillance considered under the freedom of opinion's legal, social or humanitarian categories? Even if those websites committed such crimes as libel and slander or did not respect the private lives of people! What are the obstacles that prevent the establishment of defamation crimes on the Internet under the freedom of expression umbrella?

Keywords: *Internet, online, freedom, hidden crime, expression.*

1. INTRODUCTION

Freedom of expression is a brave stand towards the prohibition of certain words, terms or expressions, particularly if mockery and offensive styles were avoided with various topics such as religion, politics, community issues, etc. Freedom with a high ceiling, which is generally perceived as a positive behavior, is sometimes regarded to as negative when it is used to harm others which might lead to social scolding or even criminal prosecution in some cases [1, 24].

Typically, freedom of opinion and expression is constrained by many limits in real life unlike the Internet where no one – for most of the time – can control the freedom of expression; therefore it is considered the optimum environment for expressing ourselves without any constraints. For this reason, online freedom of expression is one of the most controversial issues of the present.

The vital issue of the individual's freedom of expression is of one of society's major issues these days, as the sound society seeks to achieve a balance of interests within the community. National security incidents that occurred at many countries could be attributed to the freedom of expression through audio and visual media in the past. However, freedom of opinion was later considered a legitimate and balanced liberty until it reached the Internet through online newspapers, forums or social media networks. Countries are keen on adopting transparent measures to ensure the provision of sufficient protection for the rights of individuals and the State alike without prejudice to both in case such freedom was unleashed beyond all boundaries [2, 25].

Freedom of expression might address some taboos such as politics or religion in some countries, and social issues in others. Therefore, some issues could not be discussed or addressed freely because that would not be acceptable. It should be noted, however, that freedom of opinion is an importation foundation of democracy and free society. Sometimes the freedom of opinion can be expressed in a sarcastic manner that crosses all geographic, religious, political or social boundaries without realizing that such sarcasm can actually be

inacceptable or harmful to others. Some individuals interpret freedom of expression as the liberty to insult others without any regards to the Law as they believe that they cannot be prosecuted before the law for expressing themselves on the Internet so they take their freedom to extreme extents and thus cause harm to others [3, 26].

Twitter and Facebook are among the most prominent outlets of expression freedom nowadays. After the freedom of expression was subject to tight controls by editors or immediate supervisors of newspapers or nations, such outlets have given access to unlimited freedom that cannot be controlled, prohibited or driven in terms of content and prevalence.

2. DETAILS

The Internet and advanced telecommunication outlets have become the fastest and easiest way for individuals to express their opinions freely in an unprecedented ability to chat and exchange information, participate in political and democratic processes, and exchange knowledge and ideas. We must not forget, however, that online freedom of expression should be protected – particularly Internet cafes – from legal prosecution on content uploaded by users, or otherwise no one would be willing to invest in this risky business. Spam or unidentified emails might promote hatred and discrimination on a very widespread level, or anyone might simply post a unanimous comment advocating sedition, killing, incitement or kidnapping [4, 27].

Freedom of expression is the fundamental right not only to convey opinions and thoughts, but also to receive and transfer information. Rather than being absolute with no limits, this freedom is usually subject to many controls across all countries of the world such as defamation, libel, obscenity, sedition, or the violation of others' rights. Furthermore, freedom of expression is a constant demand by human rights institutions and the international law in the fields of civil, human and political rights across all forms of speech, writing or action [5, 28].

There are various forms of online freedom of expression, some are positive and others are negative, as follows:

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-Unanimous comments are of course less credible than those attributed to identify persons. The prevalence of certain edited subjects on the Internet causes severe attacks among followers and false statements. Failing to mention one's own name might provide protection from revenge or harassment, just like what happens at online forums these days [6].

-Some annoying or unidentified emails are unbelievably easy to access and use.

-Hatred letters; some calling for public killing, kidnapping or beating.

-Commercial or spam emails. Companies believe that they have the right to send massive numbers of promotional messages at different times. It is sometimes perceived that companies should not shy away from practicing their businesses even if the materials sent to users contained harmful, hazardous or pornographic contents. Companies believe that no one has the right to stop them or prevent them from practicing online commerce activities because they do not cause disturbance to users and do not impose any danger thereto, even if such materials were accessed by minors or children.

-Libel, slander and defamation are among the most common crimes committed online. Although considered traditional, these crimes are categorized among the new types of crimes because they take place online. There are many forms of libel, slander and defamation online, according to purposes, including but not limited to:

-Written materials, such as in chat rooms, online daily newspapers, email, libel and defamation through audio or video materials uploaded on websites such as YouTube to defame a certain person or degrade his/ her dignity or honor; in this case it is considered a public crime.

-Defamation is a type of libel that includes slandering or threatening someone's reputation in order to degrade them in front of others. It also includes blackmail [7, 29].

3. FREEDOM OF EXPRESSION IN ISLAM

Freedom of expression in Islam is defined as "a duty for the ruler and the ruled alike; the ruler is required to enforce it through shura, establishing fairness and order, and preventing any impacts that might result from banning the freedom of expression, and the Muslim is required not to conceal political, social or judicial testimonies" [8, 30].

Freedom is a right bestowed upon all people with no regard to their ages, races or looks so that each individual can practice actions at his/ her own discretion and will, without force or coercion, but within certain limits including consideration of public interest and the avoidance of causing harm to others [9].

4. THE LEGAL CONCEPT OF FREEDOM

Freedom in general is "the individual's ability to take actions that do not harm others". So freedom is limited to not harming others. This concept can take a

precautionary form, such as asking permission from the State to practice freedom, or a curative or penal form, such as imposing civil or criminal sanctions and penalties when the individual overuses personal freedom to the extent of causing harm to others [10].

The vast cyberspace is a fertile soil for spreading turbulence and crimes or even devastating wars! If this space is not regulated by law and order it will affect freedom of opinion and increase crimes. There are no general principles and basic rules in law for regulating online freedom of expression in local legislations in Jordan for example and the lack of an (information systems crimes law) enforced by the State. Libel can be practiced using online media under the following scenario for example: the victim will resort to prosecution and use general articles of libel and defamation laws in Jordanian legislation, and he will be shocked to see that the same penalties stipulated therein will be applied to online acts too although the effect is not the same; libel and defamation in front of a small group of people is no match to defamation in front of millions of viewers or readers, therefore it is strange that a normal case of libel can be treated the same as an online case of the same crime; it is not fair. The below are some examples for legal articles pertaining to libel and defamation in the Jordanian Electronic Transactions Law:

1. Article 38 of the Jordanian Electronic Transactions Law No. 85/2001 provides that "Any person who commits an act that constitutes a crime pursuant to legislation in force by using electronic means shall be subject to the penalty of imprisonment for a period no less than three months and no more than one year, or a fine of no less than (3000) three thousand dinars and no more than (10000) ten thousand dinars, or to both penalties jointly. In case the said legislation provides for higher penalties than under this Law, the higher penalties shall apply" [11].

2. Article 75 of the same law stipulates that "any person who uses any means of communication to convey threatening, offensive, obscene messages or reports a false news to cause panic shall be subject to the penalty of imprisonment for a period no less than one month and no more than one year, or a fine of no less than (300) three hundred dinars and no more than (2000) two thousand dinars, or to both penalties jointly [12].

After careful review we can observe that the above are the only articles within the Jordanian Electronic Transactions Law that pertain to online crimes. Until recently, there is no specific legal statement that addresses online crimes including those related to the freedom expression that exceeds ethics and manners to defamation, slander and libel cases which amount to 55 percent on emails and web pages [13].

5. THE LIMITATIONS FACING FREEDOM OF EXPRESSION

1-Censorship: Internet censorship has been a major concern for the entire world, not only on the local, regional or Arab levels. Some believe that censorship must not be imposed at all on the cyberspace while others

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see that it is necessary to censor the Web and create adequate legislations.

2-Lawsuits: There are lawsuits filed against freedom of expression and public involvement using the Internet, which forms part of a "legal war" that uses courts to suppress Internet activists and force them to remain silence because they cannot afford the costs of lawsuits. In the same context, lawsuits are promptly filed against any person who speaks over the Internet in order to silence them by using lawsuits.

3-There are continuous attempts to filter content through publishing precise information only on the Internet.

4-Laws that restrain freedom of expression: such laws are used in moral tones and are used to protect children from molesters.

5-The Internet suffers from an actual lack of security because it is a global network that is not governed by any authority or control to monitor the information exchange between hundreds of millions of users all around the world.

6-In online correspondence, or what is currently known as tweets, everyone is free to express opinions without any limitations. This might subject the individual to harsh attacks on obscene or threatening opinions, and this can place further pressure on Internet liberties and online freedom of expression and leave them without solutions until this moment.

6. PROPOSED SOLUTION

-There is a method adopted by companies that demonstrate their responsibility towards spreading clean content over the Internet, including but not limited to Google, which focuses on applying the online freedom of expression concept through the provision of a clean cyberspace using filtration software to examine, filter and remove unwanted content on a timely basis [14, 31].

-Provision of government control

-Monitoring and safeguarding content at the same time

-Providing the highest possible level of protection for online freedom of expression for all online media outlets, but within defined boundaries.

7. CONSTRAINT ON ONLINE FREEDOM OF EXPRESSION

Some governments use indirect methods to block the freedom of opinion such as:

-Difficulties in accessing information and telecommunications technology. Most people in many countries have no or limited access to the Internet.

-Extreme and deliberate rise in connection prices so as to prevent the poor from accessing the Internet. This policy is applied by several countries.

-Limited support for ICT (Information and Communication Technology) centers.

-Insufficient training and education efforts for online culture

-Governments' failure to address online freedom of opinion issues and their positive outcomes and negative impacts [15, 32].

8. FUTURE CHALLENGES

-Insignificance of this issue for many international human rights bodies, probably because they do not yet see it as an eminent threat

-Harsh criticism is directed towards organizations working in the field of online freedom of expression

-There are no individuals who adopted the online freedom of expression issue until now; as they rather concentrate on press and media freedom

-The ideas of some advocates for this issue contradict with the conflict between democracy and freedom of expression with the pursuit towards peace and stability.

9. RECOMMENDATIONS

-Licensing the website immediately. Everyone must take part in the efforts towards identifying criminals, especially if the website is not licensed in accordance with the Law, so that persons with fake usernames can be easily identified and held accountable. For this reason, all websites must be formally licensed or otherwise blocked in order to minimize online crimes [15, 16].

-Relevant countries must take on their responsibility to find mechanisms to regulate the Internet and its content in order to minimize problems faced in the cyberspace, provided that such mechanism does not conflict with international conventions on the freedom of opinion and expression and at the same time does not embody suppression and dictatorship.

-Working towards having websites that are free platforms for expression and opinion without allowing for online crimes.

-Public and private sector officials in the field of online transactions should work on drafting legislations that force websites to improve the quality of their work, such as registering with relevant government bodies such as the National Library in Jordan.

-Focusing on the human rights aspect while maintaining the freedom of expression in using the Internet. It should always be remembered, though, that no restrictions must be imposed on the world of Internet but ethics and constructive criticism must be considered without offending others [18].

-Looking towards creating a special encoding system (especially through registration online) that cannot be decoded easily because it weakens the capabilities of others.

-Focusing on the use of financial penalties as a method to sanction those who use the freedom of opinion without limitations such as libel, slander, defamation, etc.

-Spreading Internet culture and rights of users so that they can differentiate between good and bad and the culture of free opinion in line with public interests and citizenship values [19].

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-Everyone must unite in this field to regulate the work of websites, particularly those advocating the freedom of expression [20].

-Internet users must not resort to violence; they should rather practice self-control while practicing the freedom of expression.

-Censoring online media outlets for monitoring purposes only and not for suppression.

-Refraining from suppressive censorship methods such as threatening those who practice freedom of expression on the Web [22].

-We do not want to see libel and slander practiced on the Internet under the freedom of expression umbrella protected by laws and regulations if everyone continued to ignore such crimes with silence.

-Introducing millions of Internet and social media users to the concepts regarding the difference between freedom of expression and slander, and advocating the concept of positive criticism versus negative defamation.

-Working towards the cancellation of the concept "no one should be prosecuted for their opinions, even if they included slander" which reinforces the wrong concept that "there is physical harm, so there is no responsibility or sanction" [23].

-Forming statistics committees that seek to reach clear figures in the Arab world as a whole and in each Arab country respectively so that interested parties can study those statistics and identify the problem and seek solutions.

-Organizing annual and periodic conferences to discuss this issue as it grows further with time.

-Monitoring the increase in the use of Internet.

Figure 1 below shows the diffusion of Internet across the world.

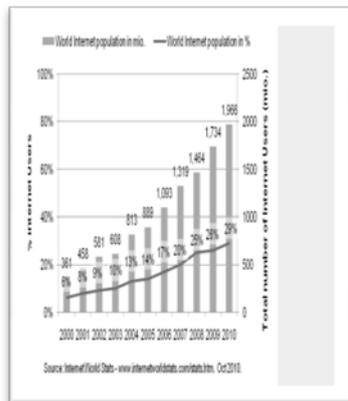


Figure 1: Worldwide Internet Diffusion of the Internet: Number of Users and Proportion of Users by World Population [33, 34].

It is noted that there is a rapid increase in Internet diffusion among users; therefore we have to control the use for users first then find an adequate mechanism to regulate the process so we can study these figures to combat crime in the field of online freedom of expression.

10. FUTURE WORK

Pursuit draw the attention of governments and human rights organizations that make laws that are interested in freedom of expression on the Internet

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