

CRIME OF EXTREMIST CONTENT ONLINE: LEGAL CHALLENGES AND SOLUTIONS

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ABSTRACT

In the era of the internet revolution, everything became possible. This new revolution opened new doors and hopes to humanity. On the other hand, this revolution makes humanity face a unique kind of challenges. Additionally, new kinds of wars. Not an ordinary weapon war but rather a war of thoughts. This war turned out to be more significant and effective than ever. The internet plays a significant role in this war. The outgrowth of the Internet has raised the chances for criminals to committed cybercrimes. Extremists and violent extremists are utilizing the Internet and social media to inspire radicalized and recruit youth. The scholars have alternate perspectives on this issue. The first perspective sceptic of the internet role in violent radicalization. They think that letting this extremist content on the internet will assist to detect the terrorist source. And give priority to the freedom of expression. However, the other scholars have a concern that simple accessibility to online extremist content may had violent extremes impacts. This paper will examine the various scholars' perspectives from countering the online extremist content, the legitimate challenges confronting countering the online extremism online, finally the lawful global collaboration to as a solution to counter the online extremist.

Keywords: Violent, Human Rights, Extremist Content, Internet, Dissemination, Freedom of Expression, Counter, Radicalization.

INTRODUCTION

Internet is a fundamental portion of the standard of living for so numerous individuals. The Internet has totally changed the paths all of us communicate and work. Its benefits to individuals all over have been massive and will proceed to drive advance in essentially each zone of life. It should be recognized that. The web may be an effective force for great; it serves humankind, spreads thoughts and improves freedom and opportunity over the world at the same time. Whereas being a constrain for great, the Web has moreover come to play a unique role in radicalizing national and worldwide terrorists. For numerous terrorism groups, the Web has come to be more than fair a stage on which they display their ideas: It may be a centre of gravity, holding together different and frequently unlinked individual's totally different cities, nations, now and then indeed continents. It encourages key discourse and argumentation, and it permits for new ideological streams to rise and be elucidated.

Extremists are utilizing the Internet and social media to inspire, radicalized and recruit people specially the youth. The scholars have alternate perspectives in this issue. The first scholars' perspective suspicious in the impact of extremist online content on the users, they argue that claiming violent extremist online content violently radicalizes individuals is meaningless given that other users of the same content are not correspondingly affected. In fact, massive numbers of researchers, writers and others are normally exposed to essential amounts of

violent extremist content over long periods; however, they are not radicalized, or even think to take part in terrorism. On the contrary, this experience may even raise these users' revulsion of terrorism and violent extremism, maybe which ought to be the contrary impact than proposed by its producers; however is it borne out of evidence? (Cristina, 2015; Githens-Mazer, 2014; Sageman, 2004).

In Vienna 2017, at the Internet Freedom Conference "*The Role and Responsibilities of Internet Intermediaries*", the Representative declared that rules and decisions regulating Internet.

"Should avoid negative impact on access to information, and should in particular avoid development of a variety of content and liability regimes that differ among different areas of the world, thus fragmenting the Internet and damaging its universality".

He also added that:

"It has become a human right to have access to the Internet and its services, and to be free to use it. The defence of this online right is the extension of the defence of the universal right to freedom of expression and freedom of the media offline" (Dunja, 2016).

Then again, doubt that Internet may have a huge task to carry out in violent radicalism and terrorism not recent issue at all. There are numerous researchers affirmed that role by a few different ways (Walter, 2010; David, 2002). Recently web does not just approve for the spread of "radical material" in a single direction transmission from maker to clients, yet in addition offer abnormal amounts of online social cooperation around this extremist content. It is exact the function of the online life that causes numerous scientists, researchers, policymakers, and others to accept that the Internet is assuming a significant job in contemporaneous extremism forms (Jason, 2003). Every minute consistently there are one hundred hours of material uploaded, additionally consistently there are 11. 300 million photographs and four billion new things are transferred in Facebook. a portion of this material are transferred and uploaded violent extremist to inspiring, radicalizing or recruit youngsters all over the world, anyway still the numbers are illegal to an adopt counter strategy (Behr et al., 2013; David, 2016).

DEFINITION

Defining "*extremism*" is problematic, (Parshall, 2013) no global definitions of either "*extremism*" or "*terrorism*", regardless of the way that these terms are normally used in the text provided by intergovernmental bodies at the universal and national level, including Security Council and Human Rights Council resolutions, the OSCE's very own obligations, similarly as states' laws and policies in General Comment 34, UN General Assembly and, the Human Rights Committee has affirmed that countering terrorism and radicalism measures ought to be convenient with Article 19 of the ICCPR. (UN human rights committee, 2011; Organization for Security and Co-operation in Europe Ministerial Council, 2016) It expressed:

"States parties should ensure that counter-terrorism measures are compatible with paragraph 3 [of Article 19 of the ICCPR]. Such offences as "encouragement of terrorism" and "extremist activity" as well as offences of "praising", "glorifying", or "justifying" terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression. Excessive restrictions on access to information must also be avoided. The media plays a crucial role in informing the

public about acts of terrorism and its capacity to operate should not be unduly restricted. In this regard, journalists should not be penalized for carrying out their legitimate activities”.

According to Oxford dictionary, “*extremism defines as the holding of extreme political or religious views*”. In addition, there are other researchers tried to put a definition to this term. As Jacob and Matthew (2014) stated that:

“Extremist is an individual who holds beliefs or views that are different from social norms and values”.

Randy (2011) defined violence is:

“The intention uses of physical force, power, or threat to against person, group, or community and resulted to injury, death, harm, and other. “

While in Randy research, he expounds that violent is active extremists who utilized force and may act rationalistic or not. Finally, Morris (2007), described extremism as:

“Activities either involved beliefs, attitudes, feelings, actions, or strategies of a character far removed from the ordinary. While violent is define as any action involved that could cause something or someone to damage, injury, hurt or death” (Randy, 2011).

Challenges of Promoting the Freedom of Expression of the Countering the Online Violent Extremism

Online Violent radicalism has been able to be a zone of concern to the government since it appears to remove the nation with complex conditions. The internet has opened new channels of communication to online community, which attract the violent radicalism group (Fenstermacher et al., 2011); violent radicalism groups utilized digital networks as rostrums for their unlawful exercises.

There are few numbers of research creates the impression that digital networks are the most effective ways toward the start of a future part's radicalism action. For instance, terrorism groups utilized the Web to make new channels of online connections, which they can spread materials without relying upon conventional media, which may blue pencil or adjust their message. Utilizing digital networks connections, it empowered violent radical to broaden their recruit by allowing them to develop the construct connection with the worldwide users for getting to their violent activity. It has been point by few that a terrorism groups utilized online networking to include direct connections and recruit individuals. Utilized of web-based social networking, such as, Facebook, Twitter, or YouTube has made new chances for the terrorism groups (Robyn, 2010; Lucas et al., 2010; Sujoyini & Ee, 2008; Andrews, 2012).

The right of “*freedom of expression*” facing a significant challenge confronting countering online Violent Extremism for two reasons: first, counterterrorism initiatives usually have tended to prioritize the interests of national governments and the public security. Second, legitimize government crackdowns and oppression that involve human rights abuses. This right has been affirmed by much legislation in the international law level as follow: by Article 19 of the Universal Declaration of Human Rights:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”(UN General Assembly, 1948)

Also, Article 19 and 20 (2) of the International Covenant on Civil and Political Rights (ICCPR):

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 1. For respect of the rights or reputations of others;
 2. For the protection of national security or of public order (order public), or of public health or morals. *(UN General Assembly, 1976)*

Article 20(2) of the ICCPR extended that:

“Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

Furthermore, Article 10 of the European Convention on Human Rights (ECHR).

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*
2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

ECHR, (Council of Europe, 1950).as well as International human rights organizations, have recognized that “*freedom of expression*” right widespread and utilized to the online range. It stated in Human Rights Council resolution 32/13 of July 2016 (UN General Assembly, 2016; UN General Assembly, 2013).

“Affirms that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice”.

It is critical to note that “*freedom of expression*” right is wide in its scope including:

“Even expression that may be regarded as deeply offensive, as expressed by the Human Rights Committee, or thoughts, data and opinions that offend, shock or disturb the State or any part of the population”. (UN General Assembly, 2016)

Under the international legal standards, there is a restriction of “*freedom of expression*” right, which is admissible, but:

“Must not put in jeopardy the right itself” and correspond specific provision, as stated by the Human Rights Committee, general comments No27 Para 14” Paragraph 3 lays down specific conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be “provided by law”; they may only be imposed for one of the grounds set out in subparagraphs (a) and (b) of paragraph 3; and they must conform to the strict tests of necessity and proportionality. Restrictions are not allowed on grounds not specified in paragraph 3, even if such grounds would justify restrictions to other rights protected in the Covenant. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.” (UN human rights committee, 1999)

Counter the Online Extremist Content

In view of the constrained viability of state laws, and without a particular or focused on lawful structure, a few nations depend on a current “*general*” legitimate system that isn't explicit to the web to direct what is, as a rule-restricted blocking or remove the illegal online content. It is seen in some countries, for example, Austria, Germany, the Netherlands, Ireland, the United Kingdom, Poland, the Switzerland and Czech Republic. In that capacity nations become progressively gone up against with the truth of web content-related questions, the nonappearance of administrative mediation has displayed a test. As of late, various components had depended on to fill the administrative hole and to handle specific matter. A few locales have even consolidated methodologies, keeping up to a great extent unregulated structure, yet with authoritative or political mediation in explicit territories. In certain purviews, for example, Albania and UK guidelines had embraced by the private segment to enhance the invalid left by the official's decision not to intercede in the zone in question. Different nations, for example, Germany and Netherland, depend on the household courts to guarantee that the important harmony between freedom of expression from one viewpoint and wellbeing of the web and security of other basic right saved to the best degree conceivable (Yaman, 2010; Busher, 2019).

Likewise, with the absence of harmonization at global level, various states began to deploy access blocking approaches and measures to block access to Internet content including sites and web-based social networking stages that purportedly contain an unlawful material, which arranged outside their lawful ward. Blocking access to illegal materials is by all accounts quicker, simpler and is by all accounts a progressively helpful arrangement in situations where state specialists can't “*remove content*” and can't arrive at the culprits for indictment, where shared lawful help understandings are not set up or where the solicitation for removing of such content is dismissed by the hosting companies or content suppliers in the nations in which the professed unlawful material is provided (Christopher & Joshua, 2015; Sreberny & Mohammadi, 1994).

In recent years, many examples have emerged. In May 2009, Kazakhstan banned access to the Live Journal website. Access to Sound Cloud, the global website for sharing music and podcasts, was also blocked from Kazakhstan because the website allegedly provides extremist material by the Hizb-ut-Tahrir Islamic Group. Also Turkey blocked access to several platforms like YouTube between May 2008 to October 2010 and during 2014, also Google website between 2009-2015 and twitter during 2014 (Freedom House, 2015; Aolain, 2019).

There is no end for these models. Nevertheless, the blocking process is not generally given by legislation nor are they constantly liable to legal fair procedures standards. Moreover, blocking choices are not really taken by the official courts, and frequently authoritative bodies or web hotlines kept running by the private division without any help choose which content, site or platform ought to be blocked. Subsequently, regularly blocking approaches need translucence and managerial body's needs to be questionable. The appeals process is not in place; they are frequently not effective. There is increasing harmony of blocking essential right of "*freedom of expression*" must be examined.

In June 2016, the Council of Europe distributed an inclusive and ambitious study "*Filtering, blocking and take-down of illegal content on the Internet*" Useful for any competitive appraisal of administrative structures as to blocking. (Cases, 2012; Council of Europe, 2016). Then the UN come up with new proposal, which attempt to solve the dilemma between protecting the right of "*freedom of expression*" and counter the "*extremist content*" on the Internet with transparency. The new TERRA proposal will govern the balance between countering the content of online extremism in a legal framework with regard to "*freedom of expression*" as a principle right rule. The EU laws and policies initiative has recognized new terrorism crimes related violations at EU level, including law implementation approaches and the obligation of online provider organizations. Moreover, the European Commission proposed the new TERREG in September 2018.

The main point of the TERREG proposal is to handle the accessibility of "*terrorist content*" on the web, along these lines forestalling potential radicalization and backing for terrorism brought about by the spread of such content. The proposal does as such by:

1. Giving a general meaning of "*terrorist content*" at the EU level;
2. Setting up two systems for specialists to get remove of illegal material by a wide class of specialist co-ops;
3. Forcing new obligations of service providers to warfare the accessibility of comparable material through their administrations, including through proactive computerized implies.

A main point in the proposal is that content removable requests would require a compelling reaction within one hour only (Ferguson, 2016; Daphne, 2018).

The ramifications of the "*freedom of expression*" for the proposal are various, critical and acknowledge. A similar proposal contains various protections to address the freedom of expression worries. Above all, the proposal forces a commitment on specialist organizations to enable clients to document and protest on the online content that they believe that it has been inexcusably removed. The proposal requires human observing and machine checker to remove terrorism online material (Aleksandra, 2018; Faiza, 2019; Regulations, 2019).

The utilization of the web for recruit and the scattering of violent terrorist materials raise noteworthy policies difficulties for public authority and internet providers as well. The freedom of expression has played a significant role to carry out regulations and policies approaches. It is obvious from the over that the TERREG proposal makes significant new odds of giving the insurance against this new crime as for the freedom of expression.

CONCLUSION

Given the perpetual growth of the Internet, existing legislation and policies initiatives ought to be checked on consistently in regards to their regard of the previously mentioned standards, with assessment components of usage set up by law, so as to guarantee that the

specialists, the lawmaker, and common society will have the option to confirm routinely that the laws implemented do not go behind defined legitimate objectives like the combat versus radicalism and terrorist groups publicity, and that human rights, especially freedom of expression and social media, are appropriately secured.

As demonstrated above, if countering the online terrorist material is compulsory, they have to base in the legislations, be requested by the official courts in the state or other autonomous bodies and carefully important and proportional to the legal objective. In thinking about whether to allow blocking the platforms requested, the courts or other autonomous bodies entrusted with the request should consider the effect of the request on legitimate contents and what innovation might be utilized to avoid illegal blocking. Each one of these influenced by blocking instruct, including producers, journalists, and different users, just as distributors of content, and the individuals who look to get to the content, ought to be allowed a chance to appeals such arranges and should along these lines be informed of their existing.

Finally, we should consider the new proposal of the UN in the local legislation as an attempt to balance between the freedom of expression and the crime of deploying the violent extremist content online. In addition, countries governments should be careful and a transparency during drafting the new laws for this new crime to not exploits this new legislation against the opponents. Moreover, a new way for legal Repression.

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