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SOCIAL MEDIA AND FREEDOM OF OPINION AND EXPRESSION BETWEEN FREEDOM AND RESTRICTION

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Abstract:

Freedom of opinion and expression is considered a form of intellectual freedom that is derived from other intellectual liberties. It is a fundamental right that allows individuals to express their thoughts and disseminate them through various media, whether written or visual, through publications, broadcasts, television, or even via the internet, especially following the advancements brought about by the technological revolution as a modern means of expression available to individuals. This facilitates the exchange of information and communication among people despite geographical distances, particularly through social media platforms in the virtual world. These platforms have significantly contributed to breaking down many barriers for individuals and advancing the practice of freedom of opinion and expression in a virtual space that forms a wide area for intellectual exchange that may seem limitless, amidst what some may describe as the "fear of the virtual."

Keywords: Virtual world, social media platforms, freedom of opinion, freedom of expression.

Introduction:

Freedom of opinion and expression is a fundamental pillar in democratic societies and a manifestation of essential human rights that individuals enjoy. It inherently requires individuals to express themselves, serving as a means for people to voice their opinions in various political, economic, social, and cultural fields. It is also an effective tool that can lead to societal rationalisation and improvement. Digital media, especially social media platforms, have enhanced freedom of opinion and expression, both in terms of dissemination and

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preservation. Despite the protective measures in place internationally and nationally through various agreements and legislation, the expansive nature of these platforms has contributed to regulating and framing the negative impacts and concerns that may arise in the realm of human rights within societies.

Social media platforms are characterised by interactivity, accessibility, diversity, and inclusivity, allowing users to express their opinions freely and facilitating the exchange of news and information among users. Notable platforms include Facebook, Twitter, WhatsApp, Instagram, TikTok, and YouTube. However, despite efforts to enhance these freedoms at national, regional, and international levels, they are not completely unrestricted; they are subject to various regulations that may limit their exercise under conditional restrictions aimed at ensuring the objectives and principles of human rights are upheld.

Problematic: To what extent can social media platforms influence freedom of opinion and expression, and what are the boundaries defining this relationship in the context of virtual life?

To address this issue, we will follow a systematic approach, relying on the following topics:

1- First Topic: Freedom of opinion and expression and social media platforms: The conceptual framework.

2- Second Topic: Implications of social media on freedom of opinion and expression.

3- Third Topic: Social media as a necessary yet constrained means to promote freedom of opinion and expression in the virtual space.

Conclusion.

THE FIRST TOPIC

SOCIAL MEDIA AND FREEDOM OF OPINION AND EXPRESSION: THE CONCEPTUAL FRAMEWORK

Freedom of opinion and expression is situated within specific legal frameworks, particularly concerning social media.

FIRST REQUIREMENT

CONCEPT OF FREEDOM OF OPINION AND EXPRESSION

It is a fundamental right that allows individuals to express their thoughts and disseminate them through various media, whether written or visual, including publications, broadcasts, television, or the internet, and any other available means of expression. Individuals are free to exercise this right, as noted by Dr. Mohamed Refaat Abdul Wahab, who stated that "intellectual freedom is derived from other intellectual liberties."[1]

The suppression of freedom of opinion and expression can result in a society losing the potential of its intellectuals and thinkers. Freedom of opinion and expression is defined as an individual's ability to express their views and beliefs freely, regardless of the medium used, whether through direct communication, writing, broadcasting, journalism, or other media. In this context, Javier Rivero defined it as "the ability of an individual to determine for themselves what they believe to be true in any context."[2]

The General Assembly of the United Nations has characterised freedom of opinion and expression as essential for all freedoms that the United Nations promotes. The American Court has also noted that "freedom of expression is the cornerstone upon which the democratic system rests, essential for the formation of public opinion; a society that is not free is not a truly free society."[3]

As an intellectual freedom and a universal right for peoples, many international, regional, and national[4]guarantees have been established. Notably, Article 19 of the Universal Declaration of Human Rights (1948) states: "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." This includes disseminating information through various media, includingsocial media platforms.

Additionally, Article 19 of the International Covenant on Civil and Political Rights states: "Everyone has the right to freedom of expression; this right includes the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, whether orally, in writing or in print, in the form of art, or through any other media of one's choice."

The right to freedom of opinion and expression is enshrined in nearly all constitutions. For instance, Algeria guarantees freedom of opinion and expression in its supreme legal texts, articulated through its constitutions or constitutional amendments. This is reflected in Article 42 of the 2016 constitutional amendment and the latest constitutional amendment of 2020[5], which states in Article 51: "There shall be no infringement upon the sanctity of freedom of opinion," and in Article 52: "Freedom of expression is guaranteed."

Notably, upon the first reading of these articles, the constitutional framework allocated a distinct article for freedom of opinion separate from the one addressing freedom of expression, considering their unique, complementary, and interconnected nature.

SECOND REQUIREMENT

THE NATURE OF SOCIAL MEDIA

Social media platforms are characterised by diversity and inclusivity, allowing users to express their opinions freely and exchange news and information with ease. Some of the most prominent platforms include Facebook, Twitter, WhatsApp, Instagram, TikTok, and YouTube.

Social media has witnessed widespread popularity, particularly in recent years, with Facebook and Twitter leading the way. Various definitions have emerged regarding these platforms. For instance, it is defined as "a program used to build communities on the internet, enabling individuals to communicate with one another for various reasons." Another definition describes it as "a system of electronic networks that allows users to create personal sites and connect through social networking with others who share similar interests and hobbies."[6]

These definitions converge on the idea that social media represents modern tools in the virtual or digital environment, providing individuals with the opportunity to communicate online, share information, and express their opinions on a global scale.

THE SECOND TOPIC

IMPACTS OF SOCIAL MEDIA ON FREEDOM OF OPINION AND EXPRESSION

Social media platforms represent a double-edged sword, capable of creating positive effects that benefit individuals, particularly in terms of enhancing freedom of opinion and expression, or negative consequences that can lead to harm, thus impacting rights and freedoms on both individual and societal levels.

FIRST REQUIREMENT

POSITIVES AND ADVANTAGES OF SOCIAL MEDIA FOR FREEDOM OF OPINION AND EXPRESSION

Firstly: **A Reflection of an Advanced Civil Society**: Social media fosters a virtual citizenship and enhances the role of civil society. It serves as a platform for public discourse, allowing voices to emerge in response to oppression.

Secondly: Cultivating a Culture of Participation and Opposition: Social media acts as a source for electronic participation, especially within political contexts. Predictions suggest the potential for creating virtual political systems that mimic existing real-world systems. Additionally, social media has become a hub for opposition during the waves of democratic movements in the Arab world, significantly influencing public opinion and advocating for deep political reform.[7]

Thirdly: Mobilising Society for New Governance Models: The Arab political uprisings have demonstrated that social media plays a fundamental role in establishing community bases, exercising critique, generating ideas, and mobilising public opinion. It significantly shapes public attitudes toward various issues, particularly in raising awareness and promoting political literacy through information dissemination.

Fourthly: A Fertile Ground for Freedom of Opinion and Expression: Social media platforms represent a virtual space and a broad domain for the exchange of ideas, embodying a refuge for many who fear traditional constraints[8]. They allow users to express their opinions on any subject and communicate with anyone without limits.

Social media has established a new way to connect among individuals, fostering friendships and exchanging ideas and interests, thanks to its accessibility and simplicity compared to traditional methods.

Fifthly: A Medium for User Engagement: Social media is a significant medium for communication, simple and user-friendly in comparison to conventional methods. For instance, the number of Facebook users in the Arab world tripled by June 2012, increasing from 16 million to 45 million users[9]. This demonstrates its role in providing a platform for expressing opinions in the virtual space, which is often lacking in the real world, especially for those with special needs[10].

Sixthly: A Means to Change and Break the Constraints on the Process of Expression: Social media platforms serve as a means to break some of the constraints that limit individual freedoms, particularly in the Arab world. They played a significant role in the revolutions that swept through the region by facilitating the dissemination of information, mobilising protesters, and enabling communication despite pressures and restrictions that hindered people's ability to express themselves and engage in political and social critique. This has made them effective in the struggle for democratic elections,[11] as individuals previously constrained in the real world found new avenues for expression.

Social media has brought many issues to the forefront of public opinion, compelling governments to make decisions and reverse others in response to mass protests. For example, the Arab region, particularly Algeria, witnessed a resurgence of demands for change through social media platforms. Facebook and Twitter became vital spaces for Arab voices to express their opinions, aspirations, and desire for change. These modern tools were essential and influential in the revolutions that emerged in the Arab region, with Facebook becoming one of the leading centres of opposition to the authoritarian political systems.

Social media has effectively contributed to establishing democratic elections by mobilising crowds, organising protests, and breaking the constraints that some regimes imposed on traditional media outlets.

Seventhly: A Means of Conveying Truth: Social media platforms play a crucial role in conveying real facts that are often obscured by media blackout and censorship imposed by authorities, both domestically and internationally. They serve as leading outlets in exposing suffering and curtailments of freedoms, particularly freedom of opinion and expression. This is underscored by a decision from the Supreme Court of Canada in the C_R_Sharp case, which emphasises that "freedom of expression is based on the conviction that the exchange of ideas, images, and communication is essential for the pursuit of truth, as well as for fostering coexistence in a diverse society with varying and conflicting beliefs."[12]

Social media platforms, such as Facebook and Twitter, played a pivotal role in the revolutions in Tunisia and Egypt, and they also highlight the Palestinian cause as a significant testament to the success of these platforms in reflecting ongoing violations and challenges to freedom of opinion and expression in Palestine.

SECOND REQUIREMENT

NEGATIVE IMPACTS OF SOCIAL MEDIA ON FREEDOM OF OPINION AND EXPRESSION

Despite the significant role social media plays in exercising freedom of opinion and expression, separate from the real world, there are several negative aspects to consider, primarily:

Firstly: **Invasion of Privacy**: The notion of privacy on social media varies significantly from one society to another. Social media platforms have become sources of harassment and violations of individual rights, infringing on personal lives under the pretext of freedom of opinion and information sharing. According to the framework of electronic media, freedom of opinion and expression is often viewed as unlimited and absolute. For example, the United States enacted the 2008 law for the non-transparent surveillance of American citizens using the internet,

which was extended for another five years without debate. This law permits monitoring of personal data of non-American citizens, indicating a clear infringement on privacy. This stands in contrast to the law passed in 2001, which was vetoed on April 18, 2013, after civil society organisations argued that it posed a threat to personal privacy and the privacy of American citizens.[13]

Secondly: Spreading Rumors Against Individuals from Unverifiable Sources.

Thirdly: A Source of Blackmail, Harassment, and Defamation.

Fourthly: The Belief in Social Media as a Virtual Space for Unrestricted Expression**;** Many believe that social media provides a virtual platform for exercising opinion and expression without constraints or regulations. However, state control over social media networks can manifest as monopolisation, where most platforms operate under state institutions, allowing governments to limit the flow of direct information and restrict access to the internet.

The imposition of taxes and fees on communication policies makes internet access cumbersome and somewhat expensive, which serves to restrict freedom of opinion and expression on social media, thereby hindering users' ability to engage.

Moreover, the prohibition of social media sites based on legal frameworks can reinforce governmental control over internet use, legitimising communication surveillance within the framework of freedom of opinion and expression while putting pressure on citizens through monitoring communications. Such practices are widespread in many countries; for instance, Tunisia has enacted various comprehensive laws concerning the internet that serve as significant safeguards against strict governmental control over expression.[14]

On the other hand, the Tunisian government and political parties monitor internet access points. In the UK, a specialised company for internet censorship called GAMMA provides various services in this area for countries like Egypt and Bahrain. Additionally, the hacking group Team – Hacking sold a system called Davinci, which specialises in such controls to the UAE and Morocco.[15]

Freedom of opinion is publicly challenged[16], under the pretext of protecting religious values, or safeguarding children, or preventing terrorism and hatred, or

protecting cultures, or national interests[1718]. These are often pretexts that contradict freedom of opinion and expression on the internet, especially when used with malicious intent under the pretext of tightening control, the United States issued in 2001 the "Electronic Terrorism Prevention Act," which allowed for the monitoring of electronic communications as part of tracking terrorists. This law coincided with the events of September 11, 2001, and thus it was not cancelled by the federal court, even as it repealed the 1996 law regulating internet surveillance and replaced it with the "Communications Assistance for Law Enforcement Act" under the pretext of protecting minors from inappropriate materials. At the same time, German authorities obstructed access to certain websites, especially those hosted in the U.S., while preventing minors from accessing and viewing propaganda for new movements[19].

The spread of electronic crimes associated with social media sites, such as hatred, extremism, and digital persecution, has transformed the virtual world into a real-world issue.[20]

Social media platforms allow everyone to express their opinions, orientations, and ideas in real names, using their actual identities, or through pseudonyms to remain anonymous. In many cases, users of social media prefer the latter method for expressing their opinions, especially when it involves insults and defamation against others, in order to avoid legal accountability.

Social media sites have become a space for insults, slander, incitement, and fake news, especially in light of the absence of regulation. In many instances, laws that penalise the sharing of false information on social media have emerged, such as the claims that alleged election results were falsified after the 2020 U.S. elections. This has led to a significant division within American society, resulting in riots, protests, and assaults that have affected many.[21]

THE THIRD TOPIC

SOCIAL MEDIA: AN INEVITABLE NECESSITY

Yet it is constrained in its role to uphold freedom of opinion and expression in the virtual space.

Social media sites and freedom of opinion and expression possess a unique specificity (firstly), but this does not negate the interconnectedness and interaction between them in the context of globalisation and the virtual space, albeit in a limited manner (secondly).

FIRST REQUIREMENT

THE SPECIFICITY OF SOCIAL MEDIA SITES AND FREEDOM OF OPINION AND EXPRESSION

Some believe that freedom of expression and opinion has its own specificities that distinguish it from others. While freedom of opinion and expression is governed by a purely human space and legal perception, social media sites are governed by technical and technological aspects, meaning they are distant from the human side. This raises questions about the relationship between them and how to reconcile the two.[22]

Nevertheless, the relationship between freedom of opinion and expression on the internet, and thus with social media sites, has become one of interconnection and interaction within globalisation, considering it a modern electronic feature for social interaction. These electronic sites allow individuals to create personal pages where they present glimpses of their personalities to a broad or specific audience, according to a system that clarifies a list of users who share communication with them, with the possibility of viewing their personal pages as well as the available information. The nature and naming of these links vary from one site to another.[23]

SECOND REQUIREMENT

SOCIAL MEDIA SITES AND FREEDOM OF OPINION AND EXPRESSION: A LIMITED INTEGRATIVE RELATIONSHIP

Freedom of opinion and expression has become a legally guaranteed right under international human rights laws, regardless of its form. The same applies to the internet, which has established principles after recognizing borders and

sovereignty within what is termed "the electronic village," which reflects the integrative relationship between freedom of opinion and expression and social media sites.

Statistics have shown a significant increase in internet users worldwide, particularly during the year 2012, with approximately 2.4 billion users by mid-2012. On the Arab level, the number of internet users exceeded 72 million in 2012, compared to 70 million the previous year. According to the fourth edition of the Arab Social Media Report, the number of Facebook users in the Arab world reached 45.2 million in mid-2012, representing a 50% increase from 2011. A recent study released by the Pew Research Center in 2012 included 22 countries, including four Arab countries: Tunisia, Egypt, Jordan, and Lebanon. It indicated that discussing political issues is one of the main interests of 64.5% of users, which confirms the strong relationship between social media and internet users.[24]

Freedom of opinion and expression on social media is recognized as a global right. On July 5, 2012, the Human Rights Council issued a resolution affirming the right to freedom of expression on the internet and on social media platforms.[25]

Conclusion:

Social media sites are a modern means for individuals to exercise their right to freedom of expression and opinion, serving as a forum for social interaction to a significant extent. However, they remain limited in scope due to their effects and widespread trends resulting from the global nature of virtual communities, which have imposed strict legal frameworks and oversight.

The tightening of control in a random manner under various justifications does not fail to impact freedom of opinion and expression, and it contradicts the principles enshrined in national constitutions, as well as international treaties and agreements.

The extent of control over traditional media, especially print media, extends to virtual media through social media networks, as it is considered a sacred right enshrined constitutionally at the national level, and under international agreements and treaties. This was affirmed by a decision from the French Constitutional

Council on June 10, 2009, which recognized the freedom to access the internet based on the provisions of Article 11 of the French Declaration of the Rights of Man and Citizen, as well as international legal texts that France has ratified and incorporated into its legislation (such as Article 1 of the European Convention on Human Rights of 1950, Article 19 of the International Covenant on Civil and Political Rights, and Article 19 of the Universal Declaration of Human Rights).

There is a necessity to achieve a balance between protecting freedom of opinion and expression and prohibiting it, considering their comprehensive nature and differing concepts. Legal controls must be established to limit the potential extension of virtual crimes into the real world without imposing strict restrictions on freedom of opinion and expression that contradict national and international protections and conflict with their sanctity. Any restrictive measures should not infringe upon human rights or violate privacy and personal life in light of technological advancements under the pretext of exercising the right to opinion and expression.

Social media platforms have greatly encouraged the practice of freedom of opinion and expression, acting as the only outlet amidst the constraints imposed by certain regulations in the real world. Therefore, regulating freedom of expression and opinion in the digital space poses a major challenge for individuals and communities, given the complexities involved in achieving a balance between protection and prohibition. The significant challenge lies in how to engage with these modern platforms in a liberated manner while ensuring accountability under self-imposed regulations.

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European Convention on Human Rights, the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, the Arab Charter on Human Rights, and National Guarantees within various domestic legislations of countries. For further details, see TaqiMubarakah, Fatima Zahra Gharib, The Previous Reference, p. 738-7.

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[13] Ali karimiThe previous reference.

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[17]Ben Hafaf Sarah, the previous reference, p. 320.

[18] For example, the security authorities in Egypt contracted with the company 'S. Ijbin' to impose surveillance on social media sites, specifically Facebook and Twitter."

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[20] "For example, Dylan Storm Roof, in 2008, who had previously expressed extremist views on social media, killed nearly 9 people in a church in South Carolina. See: The article 'Freedom of Expression on Social Media – Virtual Hatred and Real Violence', accessed on 07/05/2024 at 18:00."imctc.org.

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[22] r. Ali Karim: "Social Media and the Limits of Freedom of Opinion and Expression, Towards an International Law for the Internet," accessed on Sunday, May 7, 7072 at 02:32 AM, on the following website: cmerdhc.com

[23]MerimNomar, "The Use of Social Networking Sites and Their Impact on Social Relations," Master's Thesis, Department of Humanities, University of El-HadjLakhdar, Batna, Algeria, 2011/2012, p. 24.

[24] Lamia talla , the previous reference, p. 383-384

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