

Legal Challenges in Social Media

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OVERVIEW OF THE COURSE

It is undisputed that the Internet has become the newest forum for the public. We get and consume information differently, our news and content consumption habits have changed, and the content we want to watch has changed significantly as well. The influence of Google, Facebook, Twitter or Amazon now rivals that of the largest media companies: they generate the vast majority of online content consumption, they are the ones who determine what and how the average Internet user sees and can reach. In other words, these are the companies through which we access the Internet and the information that reaches us, they are the intermediaries between the user and the content creator, and they are the gatekeepers who are almost exclusive depositors of content access for the average user.

The operator of a social networking site can determine the rules by which it operates its own interface, registrants have two options, either accepting these rules or not registering on the site at all. Today, however, Facebook for example has such a large user base that it has become an almost indispensable community space, and thus has a huge impact on the community with its privacy policies, rules, and practices. However, since their decisions regarding unlawful contents are not public, it is still very difficult to see on what grounds these sites find certain content to be in violation of or compliant with their terms of service. This creates serious uncertainty, can lead to ad-hoc decisions, can manipulate public debate and can have a very serious impact on the democratic public discourse.

The relationship between users and platforms is governed by a contract that everyone signs when they register (or even use) such a site. All their rights, all their responsibilities, and all the disputes between them and the platforms are sorted out there. Everything a user can or cannot do on the platform is what a given platform allows them to do. The relationship is not even properly contractual, as the contract, in the form of Terms of Service, can basically be changed one-sidedly by the platform at any time. It is no longer a privilege for the states to set the boundaries of freedom of expression and to oversee it, as it has already been done by global players who extend their own code of free speech to all parts of the world.

The aim of the course is to highlight some of the legislative and jurisdictional issues raised by social media sites. This area of the international and domestic legislature is exponentially growing, pointing out new and new legal questions regarding the internet and the law in general. The course will deal with the following topics: (1) The rise of social media, and its impact on democratic discourses and the public sphere; (2) The legal questions of social media platforms' terms of use, how these contracts define the boundaries of freedom of speech in the online space; (3) As a main exemplification of social media's impact to the public discourse, the course will examine the phenomenon of "Fake news" and disinformation; (4) The course then will look into the regulatory models of social media platforms, and examines the impact and effectiveness of this type of legislation.

GRADE EVALUATION

- Participation in lectures: 60% of the overall grade.
- A written exam, consisting multiple-choice questions.

CLASS FORMAT

Interactive lecturing, and open discussion.

<u>Date</u>	<u>Topic</u>
29 nd June	Social media and the public discourse
30 rd June	Contractual freedom of speech
30 rd June	Consultation
1 st July	Fake news, disinformation
2 nd July	Regulatory models of social media platforms
3 rd July	Written test

REQUIRED READING

András, Koltay: *New Media and Freedom of Expression – Rethinking the Constitutional Foundations of the Public Sphere*. Hart Publishing, Oxford, 2019. Chapters 5. and 7.

Daniela C. Manzi: *Managing the Misinformation Marketplace: The First Amendment and the Fight Against Fake News*. 87 *fordham Law Review* 2623, 2019.

Jack M. Balkin: *Free Speech in the Algorithmic Society: Big Data, Private Governance, and New School Speech Regulation*. Yale Law School, Public Law Research Paper No. 615.

OTHER SOURCES YOU MAY FIND USEFUL

Lili Levi: *Real “Fake News” and Fake “Fake News”*. 16 *First Amendment Law Review* 232, 2018.

Annie C. Hundley: *Fake News and the First Amendment: How False Political Speech Kills the Marketplace of Ideas*. 92 *Tulane Law Review* 497, 2017.

Cass R. Sustein: *Republic.com 2.0*. Princeton University Press, 2009.

Russel L. Weaver: *Understanding The First Amendment*. Carolina Academic Press; Sixth Edition edition, 2017.