

The Digital Playground of Democracy:  
Social Media's Role in Redefining Freedom

Lauren May

University of Nebraska-Kearney

Follow me.

Throughout history, innovation has been a cornerstone of human communication. As humanity progressed, it found newer, faster means of communicating with one another. From hieroglyphics to the printing press and finally the Internet, humanity subsists on connecting with one another. Today, humanity sits on the cusp of a new era of communication and technology, one that has the ability to connect people across time zones, languages, and socio-political divides. Social media has cemented itself within the daily routines of most humans. With this insidious implantation into our society, social media platforms have become an experimental space for the First Amendment. The existence of these platforms and their connective nature have woven communities across the world together, while simultaneously tearing them apart. While connecting the world together, they pose the following questions: how can the First Amendment be protected when questionable situations occur online, how is the First Amendment enforced and protected when interconnecting continents and cultures, and finally, in what capacity can the First Amendment cover speech online? Throughout this paper, these questions will be examined deeply to determine how the influence of social media will continue to shape interpersonal communication and, as a result, redefine the First Amendment and freedom of speech.

Since the invention of the Facebook in 2004 (Hall, 2019), the idea and industry of social media have become commonplace in the daily lives of humans. Social media has the revolutionary ability to facilitate instant connection and communication with anyone across the world has allowed various cultures to become interconnected and shared in ways rarely seen before. Events in one country now spread across the globe within

hours of publication. Social media has led to numerous “viral” posts that trend due to their explosive or possibly offensive nature. In many of these cases, the speech expressed online does not break any laws, but its content has attracted such vitriol in response that it has resulted in offline consequences for its author.

For Justine Sacco, a single Tweet upended her life within 11 hours. Sacco had been flying to South Africa in December 2013 when she tweeted, “Going to Africa. Hope I don’t get AIDS. Just kidding. I’m white!” After completing her flight to South Africa, she was abruptly confronted with the vitriolic response to her poorly conveyed societal commentary. Sacco intended for the tweet to serve as a commentary on American oblivion to other issues and did not consider that it would be taken in a literal context. As Sacco stated in *How One Stupid Tweet Ruined Justine Sacco’s Life* for the New York Times, “Only an insane person would think that white people don’t get AIDS...” Sacco shortly thereafter lost her job as senior director of corporate communications at IAC, due to this single tweet and the digital outrage that ensued (Ronson, 2015).

Sacco and others have experienced the effects of singular social media catastrophes. Social media users— at least those in the United States— are endowed the right of free speech through the First Amendment of the U.S. Bill of Rights. Social media shaming has caused users to have their usage stymied or stopped completely due to the perceived intent, content, or offensive nature of their social media posts. The action of social media shaming must be examined further. The results are often a decline or complete stop of social media usage. In some cases, this is self-inflicted, in others, it is inflicted upon the user by the platform itself. Does this response contribute to the infringement of the user’s First Amendment rights? In a way, yes.

According to the Bill of Rights, the First Amendment states that “Congress shall make no law ... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” (U.S. Const. amend. I). As the First Amendment states, an American is entitled to be able to speak freely. On social media, this right is debatable. Social media platforms are moderated by both their company staff and the general public through the existence of support requests and reporting centers. This moderation imposes on users’ freedom of speech because it imposes a governing body upon users. David L Hudson, First Amendment Fellow for the Freedom Forum Institute, believes that the private entities are analogous to a government entity. As Hudson explains in *In the Age of Social Media, Expand the Reach of the First Amendment*:

Many legal scholars have recognized that when a private actor has control over online communications and online forums, these private actors are analogous to a governmental actor. For example, legal commentator Benjamin F. Jackson cogently explained in a 2014 law review article that “[P]ublic communications by users of social network websites deserve First Amendment protection because they simultaneously invoke three of the interests protected by the First Amendment: freedom of speech, freedom of the press, and freedom of association.” (Benjamin F. Jackson, *Censorship and Freedom of Expression in the Age of Facebook*, 44 N.M. L. Rev. 121, 134 (2014).)

As Hudson mentions in the previous quote, social media invokes multiple facets of the First Amendment. This is precisely why protection of the First Amendment is so critical

within social media. Social media fails to protect free speech within the moderation programs because they are too broad and subjective. While platforms have community guidelines, they tackle many areas, such as indecency, hateful speech, and offensive speech. The moderation of social media by its governing company can lead to the regulation of speech, which if not held to stringent guidelines, can infringe on the user's rights. The homogenization of humanity that comes with increase interconnectivity blurs the community standards that govern these common places. One culture's obscenity is another's commonplace. Thus, the community guidelines vary at best. The lack of First Amendment protection has led to the action of social platforms. In short, suspensions and bans across social platforms have become commonplace for controversial and offending users. Conservative social media users have complained about the possibility of being shadow banned on platforms for their beliefs. As defined in the New York Times article [What is a 'Shadow Ban' and is Twitter Doing It to Republican Accounts](#), shadow banning is:

When a person posts on a platform are rendered essentially invisible to everyone but themselves. Their experience using a site may not change — they feel like they are still posting normally — but other people cannot see the material they produce, said Monica Stephens, a professor at the State University of New York at Buffalo who studies social media (Stack, 2018).

In the New York Times article mentioned above, author Liam Stack explained that, in this case, Twitter's drop-down menu did not populate the accounts of high-level Republicans.

While in this incident, the shadow ban accusation was incorrectly asserted, many conservatives have been banned from Twitter for using the platform to express their political views. Figures like James Woods, Alex Jones, and Milo Yiannopoulos have had their Twitter and Facebook accounts banned because of their tireless expression of their views (Hayes, 2019). This expression is rightfully endowed to them by the First Amendment. Whether the action is impartial or biased, social media bans and suspensions can yield dangerous results if not closely monitored and clearly defined. Censorship on social media is warranted through the private ownership of these platforms; however, as their impact increases, society must ensure that rights are not violated in order to maintain a truly open forum for discussion.

Throughout the 15 years since social media platforms truly began their rise to domination of society's communication pathways, humanity has seen significant changes in the way communication is handled, how it is written, and its impact on every sector of society. Instead of writing personal letters, the sentiment is now expressed through a text, Instagram caption, Facebook post, or Tweet. Businesses now create employment opportunities based on the utilization of social media to harness its ability to foster connection efficiently, personally, and cost-effectively. The increased usage of these communication pathways has led to their insidious rise and the growing dependence on them for society to function.

According to the social media management site Hootsuite, 90% of brands use social media to increase awareness (Hootsuite, 2018). Most businesses maintain four to ten social media profiles, according to Hootsuite's 130+ Social Media Statistics that Matter to Marketers in 2019 (Newberry, 2019). Social media has not just intertwined

itself in the personal aspects of society, but also the professional and commerce arenas. Thus, our society is more focused on how we communicate succinctly and simultaneously how each individual and business is branded. Due to this newfound importance on perception and branding, the First Amendment has unknowingly become more important and controversial. In the preservation of one's brand or image – regardless of whether it is a personal or professional, corporate, or individual – what one says or publishes online now acts as a representation of worth to others. One mishandled incident or misinterpreted attempt at comedy now has the ability to mar one's professional and personal brand. Withered husks of human beings walk the streets, consistently recognized for their one or two digital missteps until they fade into obscurity, replaced by a new viral trend, tweet, or incident.

For us to truly integrate social media effectively into our society for it to maintain its presence long-term, the First Amendment must be extended to cover actions on social media. Whether legally or perhaps just consciously as a collective, the implementation and respect of the First Amendment with regards to online remarks and presence would positively impact the flow of discussion and ultimately change the social media landscape for the better. By expanding the First Amendment's presence within the digital discussion space, society can grow to entertain new and differing ideas. By fostering respectful discussion instead of short-sighted vitriolic outbursts, humanity can grow intellectually with respectful dissent and the preservation of every party's brand. By preserving the right to free speech, vitriolic outburst can be prevented or minimized that cause incidents like Justine Sacco's to take place. Sacco's loss of her position was short-sighted and irreparably damaging to her personal and professional brand. The

move was recognized as such by the IAC CEO Joey Levin. Levin wrote in a statement to Recode, published in the article, Justine Sacco, the PR exec who was fired from IAC for her tweets, has landed back at IAC's Match Group, saying, "With one notable exception, Justine's track record speaks for itself... Very few people in the business world have Justine's indomitable spirit, tenacity and drive to persevere. That's the kind of talent we seek. I'm very happy to have her great mind and boundless positive energy back on the team" (Wagner, 2018). In Sacco's situation, her error was recognized as such and after a sufficient amount of time had passed, she was able to assume a similar role and rejoin her former company. Protecting the First Amendment is vital to the continuation of the exchange of knowledge that takes place within the digital arena.

Overall, the reintroduction of the First Amendment into the forefront of digital exchange would allow for more decorum and thoughtful exchange of information and ideals. The reintroduction of the First Amendment and the tenant of free speech would put the vitriolic response behind the consideration of the opinion, making the online space more productive and less volatile. Productive use of social media to disseminate ideas and opinions will continue to decline if we as a society fail to recognize every individual's right to voice their opinion—regardless of its vapid or polarizing content as long as it is not said to incite violence— we will stammer our ability to think critically, debate respectfully, and evaluate sensitive or complex topics in a productive and respectful manner. If we truly want to continue to advance intellectually, technologically, and psychologically, we must re-introduce ourselves to the ideas of tolerance, respect, and freedom of speech, without those we lose our ability to communicate ideas beyond the text on the screen.



Since it was authored by James Madison in 1791, the First Amendment of the Bill of Rights has eschewed censorship and moderation in exchange for a free-flowing exchange of ideas, even those whose content most absurd. This ability is unique to our great country. With the increased homogenization of humanity through the increased communication across various barriers, we as a society cannot lose the advantages of free speech. Free speech allows us to share ideas, no matter how idiotic, vapid, deep, or polarizing. Those who publish a vapid thought at a poor attempt at comedy should not be treated like Justine Sacco and be mobbed with such vitriol in such a rapid fashion that you lose your position without knowledge of the situation unfolding. One's social media usage should not be censored unreasonably due to a vague or nonexistent understanding of arbitrary guidelines. Finally, the importance of social media in our society has become too intertwined and important to our society's day-to-day function for one user to be upended in a short-sighted vitriolic episode. Social media no longer serves as a fun, novelty means of connection, but rather as an all-important representation of one's self to the world. By ensuring the protection of the First Amendment by clearly labeling the policies of platforms, educating ourselves about viral posts, and resisting the urge to act on vitriol without all facts of a case, society can create a true forum in which ideas can spread freely and respectfully, and the progression of humanity can continue without the short-sighted outbursts and degradations of individuals. In conclusion, by failing to protect our freedom of speech when confronted by our technological advancements, society will open itself to the possibility of silence. As Benjamin Franklin wrote in *Silence Dogood / The Busy-Body /*

*Early Writings*, "Whoever would overthrow the liberty of a nation must begin by subduing the freeness of speech" (Franklin).

### Works Cited

Franklin, B. (n.d.). Silence Dogood / The Busy-Body / Early Writings Quotes by

Benjamin Franklin. Retrieved from

[https://www.goodreads.com/work/quotes/407998-silence  
dogood-the-busy  
body-early-writings](https://www.goodreads.com/work/quotes/407998-silence-dogood-the-busy-body-early-writings)

Hall, M. (2019, May 29). Facebook. Retrieved from

<https://www.britannica.com/topic/Facebook>

Hayes, C. (2019, May 04). Trump attacks social media sites after James Woods, Alex Jones other extremist conservatives banned. Retrieved from

[https://www.usatoday.com/story/news/politics/2019/05/04/donald-trump-attacks  
twitter facebook-james-woods-banned/1102418001/](https://www.usatoday.com/story/news/politics/2019/05/04/donald-trump-attacks-twitter-facebook-james-woods-banned/1102418001/)

Hootsuite Media Inc. (n.d.). Hootsuite Social Media Barometer 2018 - Social Media Marketing & Management Dashboard. Retrieved from

<https://hootsuite.com/barometer>

Hudson, D. L., Jr. (n.d.). In the Age of Social Media, Expand the Reach of the First Amendment. Retrieved from

[https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine  
ome/th-ongoing-challenge-to-define-free-speech/in-the-age-of-social-media-first  
amendment/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_online/th-ongoing-challenge-to-define-free-speech/in-the-age-of-social-media-first-amendment/)

Newberry, C. (2019, March 13). 130 Social Media Statistics that Matter to Marketers in 2019. Retrieved from <https://blog.hootsuite.com/social-media-statistics-for-social-media-managers/>

Ronson, J. (2015, February 12). How One Stupid Tweet Blew Up Justine Sacco's Life. Retrieved from <https://www.nytimes.com/2015/02/15/magazine/how-one-stupid-tweet-ruined-justine-saccos-life.html>

Stack, L. (2018, July 26). What Is a 'Shadow Ban,' and Is Twitter Doing It to Republican Accounts? Retrieved from <https://www.nytimes.com/2018/07/26/us/politics/twitter-shadowbanning.html>

U.S. Const. amend. I.

Wagner, K. (2018, January 19). Justine Sacco, the PR exec who was fired from IAC for her tweets, has landed back at IAC's Match Group. Retrieved from <https://www.vox.com/2018/1/19/16911074/justine-sacco-iac-match-group>  
<https://www.vox.com/2018/1/19/16911074/justine-sacco-iac-match-group>  
return tweet-return-tweet