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## RESEARCH ARTICLE

### FREE SPEECH AND FACEBOOK: THE DEBATE FOR REGULATING ONLINE CONTENT

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#### ABSTRACT

The advent of social media, most notably, platforms such as Facebook and Twitter, has been cherished by liberals and progressives alike as the dawn of a new age for free speech and expansion of domain for more civic and efficient communication between diverse groups of individuals and people. The euphoria that defined the prevalent mood in the 2000s later devolved into a more sober and realistic attitude among champions of unrestrained free expression. Once seen as engines of freedom of thought and speech, social media, and Facebook as the subject matter of this paper, are no longer regarded as flawless platforms after the rise of right-wing populism, the ascendancy of inflammatory and hate-driven speech, the prevalent intolerance and online mobbing, and most significantly, the meteoric rise of the post-truth politics in our daily life and political conduct. Not surprisingly, Facebook has found itself at the heart of a sprawling academic and media controversy about the pernicious ramifications of social media on major tenets of social setting and body politic. It now stands trial of a rigorous questioning over its possible role for the reverse of tide regarding free speech. Is Facebook responsible for the current predicament that gripped the platforms and modes of civic social conduct? To what extent, can Facebook be held accountable for the deterioration of free speech, violation of individual rights and encroachment on individual privacy? What would be the limit for free speech or should be any? Should Facebook intervene to remove the content of a hate speech or endorse, no matter what the content is, of unlimited right to free expression? These questions constitute the main structure of this essay. It aims to analyze the central pillars of the current debate regarding the boundaries of free speech and Facebook's role to define what would be the limitations to restrict what could be written and what not. I'll dwell upon the arguments of both sides, and will try to show merits and shortcomings of the approach pushing for more interference by Facebook against xenophobic groups while also taking on the stance of those who staunchly oppose any editorial meddling by the social media platform on people's posts. Furthermore, this essay seeks to explore the roots of setbacks and unwinding of the promising aspects of social media and Facebook in terms of advancing our socialization in public domain. The rise of autocratic leaders around the world, the resurgence of strident populist nationalism has injected new relevance to the debate. Though not for same reasons, Facebook's CEO and founder Mark Zuckerberg found himself being grilled by a group of bipartisan senators in the U.S. Congress over Facebook's failure to protect private data of tens of millions of users (Roose and Kang, 2018). The ever-growing reach of social media giants have deepened the sense of urgency for reforms to curb their unlimited power over citizens' private spheres. Facebook, Twitter, Google, Youtube, Apple and Amazon are companies with a staggering amount of data over consumers and people's habits, attitudes and preferences. Reining in market-driven and unlimited commercial impulses of these companies, according to many observers and politicians, has become an imperative. But this paper is more interested in Facebook's role in shaping and defining parameters of free speech in today's world, with its ramifications for social and political conduct. In this respect, it will only focus on Facebook's role regarding the subject matter. The study draws on a literature review and contains a critical approach regarding existing materials and articles expounding on the issue. While this essay praises the vast opportunity provided by Facebook to widen our social and civic dialogue, it also reminds the existence of perils that woefully break down social decorum and augment xenophobic and hate speech, exactly because of the nature of the same platform, Facebook, which is widely used by marginal groups, white supremacists and fringe nationalists to advance their political goals.

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## INTRODUCTION

Freedom of speech and access to information is one of the essential aspects that define a democratic state where citizens actively join the public sphere and become participants in debates to shape decision-making process that concerns their lives. Modern communication technologies provided a significant leap forward, not seen in pre-modern social settings, and tremendously eased people's connectedness to

society and other individuals. Since Jurgen Habermas's canonical *The Transformation of Public Sphere*, the idea of modern citizen is associated with someone who actively engages in political and social conduct in ways fundamentally different from traditional societies, thanks to media's all-embracing reach to cover almost all layers of social space and structure (Habermas, 1991). The modern society, therefore, came to being, with citizens vying for having a say in political decision-making and shaping the course of the nation and their state -- pillars that define what modern democracy means.

The pace of progress bewildered even most casual observers, thinkers and writers of modern society. But, for the interconnectedness and social networking to reach its fullness, the world had to wait for the arrival of the internet age and social media platforms in the past decade. And after Facebook, with more than 2 billion users, the penetration of social media into people's lives and its massive role in driving the course of social communication have completely emerged as a new phenomenon, expanding the boundaries of our imagination and thinking over the infinite and unlimited nature of the cyberspace and what it means for society, politics, economy, and our very mere being in this universe. Needless to say, this is a new era, the dawn of a new age. It would be safe to say that Facebook appears to be an embodiment of media's teleological evolution to a final form of human interaction and networking. While champions of free speech poured lavish praise on the way how Facebook widened the scope of social networking, a number of setbacks prompted second-thoughts and a new degree of healthy skepticism over its outreach. A self-reckoning and re-assessment quickly followed. The need for critical thinking and re-evaluation animated the course of discussion in the U.S. media landscape, more than anywhere else, regarding social media and Facebook's unintended side effects. Part of the drive for reckoning emanated from how geopolitics and international actors subverted and manipulated tools of social media, including Facebook, to steer the outcome of the elections in various ways.

Facebook's thrust into the heart of academic and media conversation took place under these circumstances. The issue did not only arouse a rigorous debate in academia, but it also took the form of a legal investigation by the U.S. prosecutors to unearth the involvement of foreign elements to influence the election outcome, mostly through their mastery of social media and Facebook for specific political goals. Facebook's fundamental contribution is, without a doubt, to expand the boundaries of the individual domain and allow self-expression in connection with others in a multi-connected cyberspace. Additionally, the social media giant has redefined the nature and limits of free speech in a fundamental way. What has landed Facebook at the heart of an ongoing public debate is the dilemma enmeshed in its very technical nature and the limits of free speech. It is not that Facebook is accused because of significantly curbing free speech or people's access to the unlimited expression on the social platform. But the essence of the problem is to what extent Facebook should regulate the nature and boundaries of free expression in the age of post-truth politics, and intense disinformation and hate campaigns by far-right, xenophobic groups across the world. Facebook's refusal to involve in the editorial management of the content written by users comes from the basic premise that Facebook is founded on the very idea of non-interference and hands-off approach. This is not to say that Facebook is completely aloof and non-interventionist. Facebook sometimes removes content it considers to be inciting violence and directly fomenting racial hatred. Part of the problem is how the algorithm of Facebook regulates and molds its News Feed. The click-bait strategy and prioritizing articles most liked by users regardless of its content appear to be the prime drivers of Facebook's assessment of what is more read or what should be distributed more, explicitly on the premise of users' preferences. This impersonal and technocratic arrangement without any editorial interference, this complete deference to the forces of technology by allowing algorithm pulling the strings by simply measuring user habits and preferences now faces close

scrutiny. The major contention over Facebook's approach to News Feed is that it completely rejects editorial meddling over what people talk and write on the platform. This aloofness and deference constitute the backbone of the dilemma and contradiction that define the nature of the debate about Facebook's relations with users and its handling of News Feed, the major source of information for people to obtain. Intractable as it is, the matter appears to be elusive for a tangible resolution any time soon given the reticence of Zuckerberg. In a number of interviews, he made with the media over the course of past two years, Zuckerberg pledged to improve the major tenets of News Feed. But the entire story of Facebook's jaw-dropping success stems from its management of News Feed. It is the mind-numbing numbers of users that give Facebook a considerable clout. More than 2.2 billion people use Facebook at least once in a month, something that fundamentally and drastically altered the landscape of human communication. For particularly this reason, if for nothing else, both policymakers and Facebook must reckon with an inevitable fact about free speech: It has to take public concerns seriously about the depreciation of truth in the face of dissemination of propaganda and fake news across social media, across Facebook.

**First Amendment and Free Speech:** Free speech and democracy are two conceptions inextricably interwoven to the most essential premise of modern society in the West. Particularly in the U.S., free expression is woven to the essence of social fabric and ingrained in the U.S. constitution as an unbreachable fundamental right. The U.S. political history offers an abundance of cases regarding how media stoutly fought back against the encroachment of power holders and political actors on public sphere. Yet, the issue of free speech was never completely free of controversy and even political intervention during times of political crises and geopolitical tensions in international politics, especially during the Cold War. The toxic atmosphere of McCarthyism, the Communist crackdown and purge in the federal government, media and Hollywood, and government attempts to quash alternative information and accounts that challenge the official narrative during the Vietnam War appear as the most memorable examples from the 20th century. The First Amendment of the U.S. Constitution is unrivaled in terms of accruing so much scope and freedom to individuals in terms of free speech. The founding fathers believed that the right to information and freedom of speech was necessary for the society. As such, they ensured that no one would tamper with that right in future. The First Amendment protects the citizens from being exploited by the authorities regarding their freedom and ability to speak freely. It even does not offer any measure or way to curb it, leaves free expression completely unchallenged and unrestrained. Ruane (2014) explains the concepts provided under the First Amendment citing that it restricts the government from making laws that would constrain the speech of citizens. First Amendment defines free speech as such: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or 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." (Source: Cornell University Law).

**2016 Elections and Facebook:** The result of the presidential elections has stunned not just only the American politics, but also the whole world.

Scholars and political scientists dwelled on a wide set of dynamics to dissect the surprising result of the election. The profound economic impact of globalization, the loss of American jobs to overseas, the de-industrialization of the Rust Belt, moving of factories to South, the building resentment against immigrants, the precedence of economic concerns over culture politics, the emergence of intolerance for excessive political correctness and the deepening political divide and entrenchment of tribal politics have emerged as major elements in attempts to interpret the key pillars of Trump's unprecedented success. Given a hostile media coverage, and a deep grudge and animosity on behalf of the Trump team toward the mainstream media, Trump mostly appealed to social media and unorthodox campaign methods to disrupt the status quo and establishment. His success during his campaign trail belied conventional concepts and existed beliefs about mainstream media's prowess to steer and shape a politician's reach to people during the campaign period. He largely relied on social media and direct access to voters and citizens through Twitter. His campaign team also effectively used Facebook to widen the reach of Trump's "America First" message to the U.S. voters.

Despite social media's decisive role in the campaign period, there was another sinister factor, tinged with espionage intrigue and foreign meddling, at play. The Russian efforts to foment fake news and augment prospects of the candidate Trump through the use of Facebook is now subject of an investigation by Special Prosecutor Robert Mueller who investigates the Russian role in the U.S. elections and whether there was a collusion between Trump's campaign team and the Russian officials. The Russians used Facebook to target white, pro-Trump voters through fake news in an effort to influence their thinking and voting. "Fake-news sources also paid Facebook to "microtarget" ads at users who had proved susceptible in the past." (Osnos, E., 2018) Facebook's role in the 2016 election debate derives from dissemination of "fake news" and how the social media platform's own mechanism and working allowed it to happen. Micro-targeting a specific audience for a business purpose inspired a completely new, novel way of advertising of products and brands that enabled tech-savvy companies to shift their advertisement strategies conducive to the needs of today's cut-throat competitive business environment in the social media age. Companies are compelled to adopt Facebook's advanced micro-targeting ads to expand their reach through specifically designed target groups for their products. It both reduces cost and increases efficiency to reach customers as Facebook's micro-targeting ads have revolutionized and disrupted the entire advertisement industry (Madrigal, 2017). Facebook now earns from ads more than the entire U.S. newspapers combined. The unorthodox scheme has now become new normal and the mainstream in today's business world. This shift has not only marked the harbinger of a new business model across the world. It has also inspired new communication technologies and strategies for political parties, rights groups and non-profit organizations to deliver their messages to the public. Scholar Kalsnes explains that political parties and individual politicians have always embraced the new communication technology such as Facebook to change their electoral environment for their gains (Kalsnes, 2016). As every new disruptive technology created its own pitfalls and question marks in the past, micro-targeting ads, insofar as fake news and xenophobic hate propaganda concerned, appeared to produce drawbacks so much that liberals are now struggling to gauge ramifications

and negative consequences of this new scheme. It is in this context that Facebook faces sharp criticism for allowing the lines between the profit-oriented business mindset and an expected social responsibility to curb fake news to be blurred beyond distinction. There is a universal consensus among The New York Times, Washington Post, Wall Street Journal and other U.S. media outlets, along with the intelligence agencies, that Russian authorities extensively used Facebook to foment hatred and sow discord in an effort to influence the 2016 elections. Special Prosecutor Mueller indicted and charged 13 Russians with interfering in the U.S. elections through the meticulous use of Facebook, Twitter and Instagram as part of a concerted intelligence campaign to sway the election results in favor President Trump. Two years after the election, Facebook acknowledged the existence of Russian efforts and unveiled its own findings regarding how Russians paid thousands of dollars for micro-targeting ads to spread the fake news among the U.S. populace. The fake news exposed the vulnerability of Facebook, no less tarnishing its credibility (Isaac and Wakabayashi, 2017). Another point of debate hovered around Facebook's lax rules and even its complicity in allowing Cambridge Analytica to obtain more than 80 million users' private data (Confessore, N. 2018). The issue reverberated across the U.S. and offered a legitimate ground to the U.S. senators to launch blistering attacks against Facebook CEO during a congressional hearing this year. It raised questions over Facebook's failure to protect users' personal information and data, its share of the data collected from people with third sides without their consent and knowledge. The company pledged to improve protection of users' personal data but the question still remains wide open given that Facebook's entire business model relies on sharing of the data with other firms for advertisement.

**Ruminations on Free Speech and Alex Jones Case:** The entire drama revolving around free speech and the case for its limit is rooted in today's political quarrels (Friedman, 2016) and the course of political developments, especially in the advanced Western democracies. Irrespective to the controversy about social media and the rise of fake news, there is another element that warrants attention. Despite the conventional wisdom and mainstream belief that free speech is an accomplished task, it is not a done issue. The ideal repeatedly stands the trial of political currents of the day, and the Western liberal democracies are no exceptions. David Pryce-Jones argues that the fight for free speech will never end. After delving into a set of elements that still pose genuine threats to the notion of free speech, he reminds that even democracies face the risk of sliding into authoritarianism. As a conservative thinker, he laments liberals' endless efforts for expanding the regulatory power of the federal government to shape political conduct, a pattern that sometimes even extends to limit the space of free speech (Pryce-Jones, 2015). Well before the 2016 U.S. elections, the Western institutions and media had to come to grips with the question of hate speech by certain politicians and the move to regulate one's right to free speech. The trial of Dutch politician Geert Wilders who used derogatory remarks against Dutch-Moroccans presented a quandary for the Western democracy, threw the issue of free speech to the heart of political conversation both in the Netherlands and across the international community. "Do you want more or fewer Moroccans in this city and in the Netherlands?" Wilders asked the crowd. The audience responded with saying that "Fewer, fewer!" Wilders' positive nod that "they would arrange that" made him an object of a legal investigation for hate remarks

against a particular minority group (Siegal, 2016). He previously likened Quran, the holy book of Islam, to Nazi dictator Adolf Hitler's *Mein Kampf*. While he evaded a probe back then in 2011, his characterization and depiction of Moroccans landed him an uncharted territory in legal terms as Dutch prosecutors and judges began to think that he overstepped the boundaries of free speech by targeting a certain segment of the Dutch society.

It is no exaggeration to suggest that so long as right-wing populist leaders indulge in such kind of political language, political and legal controversy regarding hate speech and free expression are bound to simmer for the foreseeable future. The arcane debate over boundaries and limits of free speech recurred again, though in a different context and setting. Late this summer, social media and tech giants like Twitter, Youtube and Apple moved to remove account of Alex Jones, a right-wing radio host talk and Chief Editor of InfoWars, for disseminating fake news and hate speech. The development aroused spirited debate over whether social media platforms acted prudently to contain conspiracy theories and hate speech, or violated free speech, one of the most basic rights enshrined in the U.S. constitution. It splitted the academia and intellectual world, while media still ruminating on potential repercussions of the ban. White nationalists and right-wing folk decried over what they say blatant violation of Jones's constitutional right. The ban came after Jones questioned the authenticity of Sandy Hook school shooting, in which 26 young students and teachers were killed in Newtown, in Connecticut, in 2012. He dismissed the mass shooting as a hoax, sparking widespread outrage from families of the victims. Previously Jones, above all, solidified his reputation for most bizarre conspiracy theories, peddling factually inaccurate stories, disseminating fake news, and spreading outright hate speech against minorities, Muslims and immigrants. He claimed, without evidence, that the U.S. government was somehow involved in the Oklahoma City bombing in 1993 and the 9/11 attacks in 2001. Among his most crackpot theories was the suggestion that vaccinating children will make them autistic. As a doomsayer, he frequently warned about outbreak of another civil war in the U.S., citing deepening political divisions.

A stalwart in alt-right media ecosystem, Jones taps into pro-Trumpian sentiment among disaffected white nationalists who have increasingly grown disillusioned with globalization and its economic fallout for the U.S. industrial workers. But do social media giants have the right to squelch criticism and voice of a right-wing figure, even if his talks and writings teemed with morally dubious and ethically flawed content? Can Facebook and others ignore the constitutional right of a prophet of the alt-right? What is the ideal point between the right to unrestrained free expression and the urge or need to limit it? These questions are not merely interest of abstract theoretical thinking. They remain at the heart of ongoing public and political debate about when and how free speech can be limited. And it has legal dimensions as well. "Laws such as America's Communications Decency Act (CDA), passed in 1996, largely shielded online firms from responsibility for their users' actions," Economist wrote recently (Economist, 2018). The legislation from the 1990s appears outdated given the emerging need of doing something against mushrooming fake news today.

Who can decide censorship? Do technological firms have the right to be arbiter of the selection process? The point has certain pertinence. Yet, there is no final resolution or consensus among intellectuals and legislators about how to maintain the delicate balance between regulating online content and preserving the constitutional right of free speech. In Alex Jones's case, according to Alex Shephard, Facebook first appeared reticent to implement a ban against the agitator. Facebook CEO Zuckerberg who flaunted himself as the champion of free speech ignited a firestorm when refused to ban a Holocaust denialist (Shephard, 2018). Shephard harshly criticized Facebook for allowing conservative media figures and conspiracy theorists to use its platform irresponsibly. Preserving the balance between protecting people's right to free expression, regardless of the content, and unwittingly enabling alt-right's toxic political agenda on social media platforms proves to be unattainable. According to Shephard, Facebook cannot turn a blind eye on conservative figures' manipulation of its platform to spread hate and fake news. For Shephard, Facebook courts conservatives with an intended goal to win Republicans in Congress to avoid large-scale regulations after a possible legislation. To kill off such a legislative act from the start, it seeks to eschew alienating the GOP. "But Facebook is desperate to convince users and regulators that, in the age of the social network, conservative and liberal media can continue to co-exist. The problem is that no platform can host conservative media without ultimately being implicated in conspiracy theories, Holocaust denialism, or worse," Shepard notes (Shephard, 2018).

**Facebook and Holocaust Denialism:** Regulating online speech has taken on a new twist in the 2018 summer when the Facebook CEO gave a controversial interview to Recode. "I'm Jewish, and there's a set of people who deny that the Holocaust happened. I find that deeply offensive. But at the end of the day, I don't believe that our platform should take that down because I think there are things that different people get wrong," Zuckerberg said. (Swisher, 2018). I don't think that they're intentionally getting it wrong. It's hard to impugn intent and to understand the intent," he added (Swisher, 2018). His remarks sparked a widespread condemnation and ongoing controversy into Facebook's regulation policy. The U.S. public and commentators were divided over how to respond to Zuckerberg's controversial remarks. When he articulated his endorsement of any content, however controversial or incendiary, in terms of free expression, the defense of someone's denialism of Holocaust came as too much for many people from media world. Zuckerberg, according to them, went too far and unmoored the real meaning of free speech from its intellectual roots by ignoring the line between hate speech and free expression. "Facebook fails to comprehend the nature of Holocaust denial and other forms of bigotry -- and so it's aiding their spread, instead of combating them," one commentator opined (Rosenberg, 2018).

In the face of Zuckerberg's endorsement, two lines of thinking have emerged. One immediately pressed for a ban on such bigoted ideas and the spread of Holocaust denialism on Facebook. The other warned about its negative impact for free speech and the questionable effect of censorship. Rosenberg thinks that "there are two reasons why censorship is not an adequate response to bigoted misinformation." The first, he notes, that censorship suppresses a symptom of hate, not the source. In his view, any attempt to silence hate speech does not eradicate that symptom, but rather turns owners of bigoted

remarks into heroes. This was certainly the case when Jones was banned by Apple, Facebook and YouTube. Even legislative action falls short of effectively dealing with the widespread hate speech. Though the E.U. countries enacted laws to fight against anti-semitism, the ideology or hate still survived and thrived in most liberal countries. The second reason, the American journalist argues, is that “censorship is not an effective response to internet anti-Semitism and racism that erasing online hate erodes awareness of the bigotry in the real world.” Removing all the elements of hate speech in social media in a given country does not eliminate the reality of bigotry there. Another line of argument emanates from a technocratic approach to Facebook’s working. According to Shephard, the tech giants “try to cater to the interests of all of their users, which is how people like Jones thrive in the first place.” He argues: “And in his Holocaust comments, Zuckerberg did get at something true: Facebook doesn’t technically have a responsibility to suppress hateful speech. The InfoWars mess is symptomatic of an industry that has grown too large and unruly, with an outdated legal and regulatory framework that both under-regulates platforms and gives them little motive to self-regulate” (Shephard, 2018).

### **Regulating Online Speech: Arguments of Proponents and Opponents:**

There are both proponents and opponents of limitation of free speech, the beacon of modern liberal democracy and the most fundamental aspect of the contemporary human civilization. Though cherished and relished as an indispensable right, free speech is not worshipped by some thinkers as an inviolable and sacrosanct conduct. To critics, who savor the wisdom of positive liberty as defined by Isaiah Berlin in his canonical treatise on human liberties, free speech is not unlimited. In this respect, certain restrictions would be placed in certain circumstances. In an essay titled “Two Concepts of Liberty” in 1959, Berlin elucidates on the nature of liberty with a novel approach from the angle of political philosophy. He makes a “distinction between negative liberty, that which the individual must be allowed to enjoy without state interference, and positive liberty, that which the state permits by imposing regulations that, by necessity, limit some freedoms in the name of greater liberty for all” (Berger, 1997). For a just society to be achieved, Berlin asserts, both kinds of liberty are required. According to the adherents of this line of thinking in Berlin’s mold, political authorities and states may intervene to design and shape boundaries of freedom to preserve the essential pillars of the social structure and the whole body politic.

Subscribers of this idea may embrace a similar approach when it comes to the contemporary debate about limiting free speech in social media to fight fake news and hate speech. But those who are fascinated with Berlin’s approach may find difficult to justify a similar interference regarding free speech given that authorities’ role in defining the space of communication is tantamount to authoritarianism and associated with illiberal tendencies. The different ways of interpretation of the First Amendment sometimes lead to divergent views over whether there is a room for regulating free speech in terms of battling hate speech and stopping remarks regarded to be inducing violence. Law Professor Volokh argues that there is no ‘hate speech’ exception to the First Amendment. “Hateful ideas (whatever exactly that might mean) are just as protected under the First Amendment as other ideas. One is as free to condemn Islam — or Muslims, or Jews, or blacks, or whites, or illegal aliens, or native-born citizens — as one is to condemn

capitalism or Socialism or Democrats or Republicans,” he thinks (Volokh, E. 2015). With this in mind, proponents of regulating hate speech hardly have any justification to cite the First Amendment for any legislative or court action to impose a ban on the content of a certain speech. In his Washington Post op-ed, Volokh convincingly documents Supreme Court decisions in the past, in favor of free speech, regardless of its content. There were a number of court decisions in this regard that ruled against calls or applications for limiting a newspaper article or a speech at different times and places. The dispute is far from a final resolution. Despite the disagreement over opaque wording in the First Amendment, some commentators still cite it for a move against hate speech mongers, while the opponents of regulating unwaveringly cling to the First Amendment for a strong defense of unlimited speech. (Purdy, 2018). In the latest Jones case, the situation was discussed from a different angle when tech giants, instead of political authorities, took action.

In today’s story, authorities are not the only actors who wield power to restrict any type of speech or expression. Facebook, Apple, Youtube, Google and Twitter appear as autonomous bodies who are expected to take actions or make decisions to remove certain contents or accounts for the sake of preserving civic discourse, public decorum and social conduct against xenophobic groups. But the very political nature of debate accords a certain degree of arbitrariness to the process of determining which accounts or users to be suspended, lending ammunition to the critics of any limitation effort. After the Jones case, conservatives and right-wing groups lamented discrimination against them, accused social media giants of attuning to the interests of liberal politics and Democrats. The accusations are not completely baseless and groundless. The ban against Jones called the potential violation of First Amendment into question and inspired a heated debate over liberals’ zealous push to shut out right-wing voices from college campuses around the country (McPhate, 2018). The two issues are not entirely unrelated and even expose the juxtaposition of political tribalism in the socio-political landscape and free speech debate in social media and academia. Insofar as the free speech controversy concerned, tech giants are on trial by both proponents and opponents of limiting free expression. Critics of Twitter gripe about commercial motives and impulses behind its business model, and accuse it of toeing the line of autocratic governments around the world to avoid losing its reach to lucrative markets. Twitter, as critics’ argument goes, unquestioningly acquiesce to demands of authoritarian countries to shut down accounts of critical and opposition voices (RSF, 2017). Twitter’s morally compromising stance comes as a slap in the face for the unapologetic defenders of the right to free expression. Twitter thrived and became a worldwide phenomenon especially in the non-Western world during Green Revolution protests in Iran 2009, during the Arab Spring across the Middle East in 2010 and 2011, and Gezi Park protests in Turkey in 2013. It proved to be a main driving force behind mass social protests, and organizing element of social action while facilitating criticism of the incumbent regimes in the given countries. Liberals cherished how Twitter contributed to expansion of free speech and expression of critical voices in non-liberal and authoritarian societies. They also relished the prospect of a borderless global community on digital platform. But drawbacks and setbacks soon followed. Today, the tech giant cooperates with countries like Turkey, suspending and shutting down accounts after demands of the local government in order

to remain in the market (RSF, 2017). Regarding the interminable debate for regulating online content and fighting against hate speech, while there is a scant legal basis for authorities to act, Silicon Valley's leading companies became more active in dealing with hate speech after mounting public criticism. The need to fight against fake news and hate speech compelled Facebook, Youtube and Twitter to develop a coherent policy to actively regulate the content of their users. In contrast to their former aloofness, the tech giants have now established departments and units to oversee modalities of regulation and to set precedents and standards for when and how to remove a certain content. To this effect, Facebook formed "Content Standards Forum" and even invited media members to introduce its newly-established "war room" to fight against Fake News during Midterm elections in November. (Frenkel and Isaac, 2018). Other platforms have their own units and Twitter now has deleted millions of bolt and fake accounts (BBC, 2018). When pressed with questions over why it did remove Jones's page, Facebook said it received litany of complaints from other users that Jones's page is glorifying violence and "using dehumanizing language to describe people who are transgender, Muslims and immigrants." (Economist, 2018) YouTube also offered a similar justification for termination of Jones's channel.

Amid the clash of interpretations whether what tech giants did is right and legally permissible, the matter has both philosophical, political and legal dimensions. According to proponents of regulating online content and limiting free speech under certain conditions, Silicon Valley's self-proclaimed policing is not bound up with First Amendment and they have right to stamp out fake news. According to a piece appeared on *The Economist*, the ban on Jones does not violate freedom of speech, but in a one strict sense. The First Amendment's ban on "abridging the freedom of speech," *Economist* argues, that "means the government may not censor or punish expression." "No arm of the state may discriminate by viewpoint when setting the rules for a public forum. Even offensive and hateful speech is permissible under the Supreme Court's expansive conception of free expression, unless it intrudes on one of a few very narrow carve-outs including the direct incitement to violence or so-called "fighting words," -- epithets uttered in someone's face that could spark a brawl," the piece (*Economist*, 2018) went on to elaborate on the liberal interpretation firmly embedded in First Amendment. It echoes the line of thinking espoused by law professor Volokh above.

But, *Economist* notes with a caveat, that private companies are not the state. "Apple, Facebook and YouTube can write their terms of service as they wish and police posts as they choose. If they do not want to host content they deem abusive or manipulate, they do not have to" (*Economist*, 2018). While First Amendment decisively limits the government's role in regulating people's free expression, private companies are not treated and regarded by the law in the same fashion. The question whether those tech giants would be conceived as quasi-governmental actors, as *Economist* asks, that would be bound by same constitutional requirements is a key determinant to shape the course of the debate. According to Laurence Tribe, a constitutional law scholar at Harvard University, they are not (*Economist*, 2018). That has both positive sides and negative ones. With it, comes with the peril of overreach and arbitrary acting. In remarks to *Economist*, the scholar expresses his concerns that if those "hugely influential and far-reaching entities are "capricious" or even "partisan" in

their rule-enforcement, the ideal of an open society may be compromised (*Economist*, 2018). It is no easy task to find the right balance between the need for regulating content to stamp out fake news and the self-restraint in the face of the risk of over-enforcement or over-control given the vast powers of tech giants. Shieff appreciates the existence of the judicial paradox involved with the social network usage. The author describes how youths in the learning institutions are using Facebook to express inflammatory remarks regarding other culture, individuals, and communities. Shieff calls for control and proper assessment of the social network usage (Shieff, 2014). Berghel argues that like the radioactive elements, the society cannot underestimate the impacts of fake news stories no matter how little they may seem (Berghel, 2017). According to Strossen, limiting the freedom of expression through the social networks like Facebook is tantamount to empowering officials to punish those who criticize them or even the marginalized groups (Strossen, 2016). The opponents are startled by the prospect of politicized Facebook and Twitter. According to right-wing groups, Silicon Valley has openly become a beacon of liberal worldview while shutting out non-liberal views from its platforms. Alex Jones even presents himself as a First Amendment martyr after the ban.

Facebook's credentials came to public scrutiny in another case, in Myanmar, where authorities (Mozur, 2018) used the platform to bolster their own narrative and propaganda against Rohingya Muslims amid an ongoing persecution and mass displacement of hundreds of thousands of people. The widespread use of hate speech that even calls for violence against the Muslim minority commanded international attention and got immense coverage by leading media outlets. The *New York Times* documented how Facebook was used to facilitate and justify the army's brutal campaign, which was described as an ethnic cleansing by the U.N., against Muslims living there. (Mozur, 2018) Facebook largely remained silent and defended its non-interventionist policy. The correlation between misinformation and hate speech against minorities and acts of violence is not only limited to Myanmar. The outbreak of anti-Muslim riots in Sri Lanka after pro-violence messages on Facebook prompted the Sri Lankan government to block Facebook's page services to halt the violence.

## Conclusion

Free speech has become a central topic of recent political debate. The world has seen the rise of authoritarianism and a concerted attack on free speech in many parts of the globe, a trend that has become crystallized by the global decline of democracy. The debate on free speech has unmistakably taken place in relation to the resurgence of fake news and hate speech on social media. This presents a quandary and conundrum for the defenders of free speech amid liberals' demands from social media platforms, such as Facebook and Twitter, to fight against the spread of fake news and incendiary rhetoric on internet. Both proponents and opponents of regulating online speech present strong arguments. And the debate is bound to last for the foreseeable future as political currents of the day demand that. The strongest aspect of Facebook, the impersonal nature and institutional policy of non-intervention, also constitutes its biggest weakness. It lies at the core of sharpening criticism. With every success story that saturates the innovation landscape of Silicon Valley, Facebook, too, has its own downsides. Facebook, for its case, is haunted by a different kind of challenge amid public and

political demands for substantial reforms. The social media giant's deference to users' tendencies, its dependence on users' personal preferences, likes and dislikes, and its unfettered impulse of commercial interest in terms of targeted business and social ads on the platform constitute the backbone of its success story as well as the object of increasing criticism. Facing ever-growing pressure, the company indicated signs of revisiting its policies. More than anything else, Facebook must reckon with the unintended and unexpected consequences of its policy of editorial non-interference in the face of populist rebellion and weaponization of First Amendment (Liptak, 2018) to promote xenophobic and inflammatory hate speech. Yet, with the dilemma comes another indispensable responsibility. While fighting hate speech, Facebook also needs to preserve the scope of free expression as wide as possible.

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