

Identifying and Countering New Forms of Censorship

Working session 1: Freedom of expression, free media and information

Submission by Wiener Akademikerbund

Just a couple of years ago, it would seem that the Internet and the emerging social media platforms was creating a new wave of free media and free information exchange that would radically improve the education of the general public and participation in public life. However, new forms of censorship are now emerging that stifle and suffocate these potentially positive developments.

These "New Forms of Censorship" are different from traditional, State-controlled censorship such as "The Great Firewall of China" or Turkey blocking access to undesired social media platforms. The new forms of censorship do not seek to make undesired content disappear, merely to make it so improbable to find that it will have little or no impact in public debate and policy discussions. This is done mainly by private corporations, according to unclear guidelines and with no due process.

This wall of discriminatory practices include "strikes" on YouTube channels, demonetizing content, thereby cutting revenue streams to independent journalists, or direct closure of accounts. It includes adjustments of search algorithms to downplay controversial material critical of authorities, or directly closing accounts. PayPal and other financial actors are put under pressure to cut ties to independent voices based on mere accusations, and overly broad copyright laws are being exploited to attack independent media.

Many different groups are being target by these practices. Ostensibly, this should target only terrorists, criminals and "hate groups", but unclear definitions and poor methodology have changed this substantially, and for the worse.

One problem is that social media providers to a great extent rely on reporting from users who do not like the content. Thus, if material posted is factually true yet unpopular in some circles who organise large number of complaints, it becomes target of discriminatory practices.

A mirror of this problem is the difficulty of algorithms to determine if a particular post or video endorses or criticizes inhumane, violent and/or criminal behaviour. This problem is aggravated by pro-censorship regulations, like the recent German one that require offensive material to be removed within 24 hours. Working under threats of fines up to €50 million, the providers are sure to err to the pro-censorship side, preferring to remove too much content rather than too little.

A third problem is the definition of "hate speech" or "hate groups", which remains much too vague to meet normal legal standards. This permits for politically biased organisations to assume power over the definitions, and attack important documentation organisations along with obscure hate groups. There is no established due process for designating some organisation as a "hate group", nor for appealing such designations. Therefore, the political exploitation of the concept constitutes a direct threat to media freedom and genuine freedom of information.

A fourth problem is that genuine pro-terror and pro-Sharia organisations are not targeted as effectively as those who criticize political Islam, aim to uphold constitutional democracy and fundamental freedoms. This may sounds paradoxical, but apparently some organisations who seek to define "hate speech" confuse criticism of Islam, Sharia and terrorism with attacks on Muslims as such, or on the fundamental freedom of religion. Again, the lack of established, transparent mechanisms and due process opens for pro-censorship forces to attack the independent media.

The targets of these practice are manifold. Critics of Islam and Sharia have been hit quite systematically, but also Christian groups, conservatives, critics of war and of central banking have seen their material labelled as "Advertiser unfriendly", cutting important streams of revenue for independent voices and Samizdat-style free media.

While the problems are manifold and keep changing, addressing them in a principled manner is non-trivial. The New Forms of Censorship are to a great extent driven by private corporations fearing public backlash or state penalties, and are not directly covered by existing laws protecting freedom of expression. Therefore, new mechanisms needs to be developed, based on principles of freedom and confidence in free citizens putting such freedoms to good use.

Another driver of New Forms of Censorship are the political tendencies to make compromises between freedom and security. However, any such compromise should be suspected of constituting a defeat for freedom, as it implies giving in to threats of or actual violence. We need to counter threats against freedom of expression and information exchange, not compromise with them.

Of particular concern are the "Istanbul Process" and "Rabat Plan of Action", which exploit the International Covenant on Civil and Political Rights, specifically Article 20 about 'Incitement'. By reinterpreting 'Incitement' to mean any information that may anger others, even if true, a comprimise has been established wherein aggressive behaviour or threats thereof can be exploited to suppress and punish truthful information. This must be corrected in order to protect our freedom.

This is a new area of concern that will require more research and principled action in order to protect the freedom of expression we used to take largely for granted. And this is urgent: If censorship is permitted to strangle the emergent independent media, there may soon be very few civil society voices left to speak up for constitutional democracy and fundamental freedoms.

Thus, Wiener Akademikerbund calls on OSCE to establish a working group to map out these problems, the types and magnitude of them, to create new, principled strategies to protect independent media from unfair discriminatory practices, and to create a set of guidelines for participating States to protect and promote the emerging free media.

Specifically, the Akademikerbund recommends:

- That copyright laws get amended to include "Fair use" clauses similar to the American one.
- That OSCE pS' abstain from entering into pro-censorship agreements with private corporations.
- That OSCE pS' abstain from forcing private media providers to implement censorship.
- That OSCE establishes a working group to identify and counter censorship and discriminatory practices against new media, with the aim to suggest guidelines for protecting new media.
- And finally, that the OSCE Freedom of the Media representative clarifies that publishing the truth can never constitute "Hate speech".

A note on sources: Since this is a topic in rapid development, there are lots of singular case stories, but limited systematic overview. The examples below represent a sample of the problems and discussions of the principles, but hardly a full overview of the complex situation.

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