**INSTRUCTIONS**

It is often argued that the Internet is a powerful tool for equalizing imbalances of power by giving voice to the disenfranchised and by allowing more democratic participation in public discourse. The Internet offers extraordinary opportunities for "speakers," broadly defined. Political candidates, cultural critics, corporate gadflies -- anyone who wants to express an opinion about anything -- can make their thoughts available to a world-wide audience far more easily than was ever possible before. A large and growing group of Internet participants have seized that opportunity.

Some observers find this outpouring of speech exhilarating. They see in it nothing less than the revival of democracy and the restoration of community. Other observers find the amount—and, above all, the kind of speech—that the Internet has stimulated offensive or frightening. Pornography, hate speech, and lurid threats flourish alongside debates over the future of traditional political parties and exchanges of views concerning fly-fishing in Patagonia. This phenomenon has provoked various efforts to limit the kind of speech in which one may engage on the Internet -- or to develop systems to "filter out" the more offensive material.

\*\* Drawing on the assigned readings, post a thread to Discussion Forum/Topic #3 in which you discuss your opinion of the various attempts to control speech on the Internet. Are there any ways in which government might regulate the Internet so as to shield children from pornography? How would you draw the line between pornography, hate speech, or threats subject to criminal punishment and "speech" protected by the First Amendment?

Incorporate **at least three of the assigned readings** or texts into your postings and be sure to respond to at least TWO of your fellow students.

**RESPONSE**

**Should the Internet be Considered a “Public Forum”?**

The First Amendment contains arguably the most important freedoms granted to American citizens. Citizens are granted broad freedom to say whatever they want, given time/place/manner restrictions, in traditional public forums such as streets, parks, and sidewalks. With the rapid expansion and accessibility of the internet, should the web be considered a new public forum with First Amendment protections?

In *Reno v ACLU* (1997), portions of the Communications Decency Act (CDA) were repealed but still held children need to be protected from viewing obscene sexual content. Additionally, Noorani states in the article “Free Speech in Cyberspace” that child pornography is also considered obscene and can be prosecuted. These principles also align with display of such content in traditional public forums on a state-by-state basis. (An interesting thought experiment: could pictures of aborted fetuses that are held by anti-choice activists outside of Planned Parenthood clinics be considered obscene? They argue that it’s a picture of a dead child, but since it isn’t wearing any clothes could it be considered public display of child pornography?)

However, in *Elonis v US* (2015), a threat made online was found to be constitutional so long as the statements were not “true” threats, based on the intent of the person making the statements. This does not align with statements made in a traditional public forum as many statutes, such as Utah Code 76-9-102 (Disorderly Conduct), prohibits and criminalizes threatening behavior. It can be argued that such statements do not fall within First Amendment protections and are parallel with the common rhetoric of “yelling ‘FIRE!’ in a crowded theater”.

The question if the internet should be considered a public forum is a complicated one. Most websites are run by private entities and users are subjugated to the Terms of Service. Government internet forums are subjected to First Amendment protections and are ideally not a place where prior restraint can occur (unlike Facebook or Twitter). But since there are hundreds of millions of users on social media sites that foster a previously-unfathomable amount of communication, I argue that social media sites are the new “traditional public forum” and should be treated as a public utility. “Public utilities may include common carriers as well as corporations that provide electric, gas, water, heat, and television cable systems” (Cornell Law).

As a free speech absolutist (minus threats of violence etc.), I vehemently disagree with algorithmic content filtering and banning social media users for free speech, regardless of the content. By reclassifying social media sites as public utilities, users would enjoy First Amendment protections that are provided in traditional public forums. Companies would still be allowed to make a profit (like electricity providers) but cannot screen content and users posted online within the bounds of the First Amendment. This would rectify the Elonis case, satiate those who whine about their accounts being suspended, and allow equal footing for all speech by removing algorithmic content filtering and therefore the “echo-chamber” effect.

The internet itself should not be classified as a public forum, but social media websites should be. Twitter, Facebook, and YouTube are the first ones that come to mind.