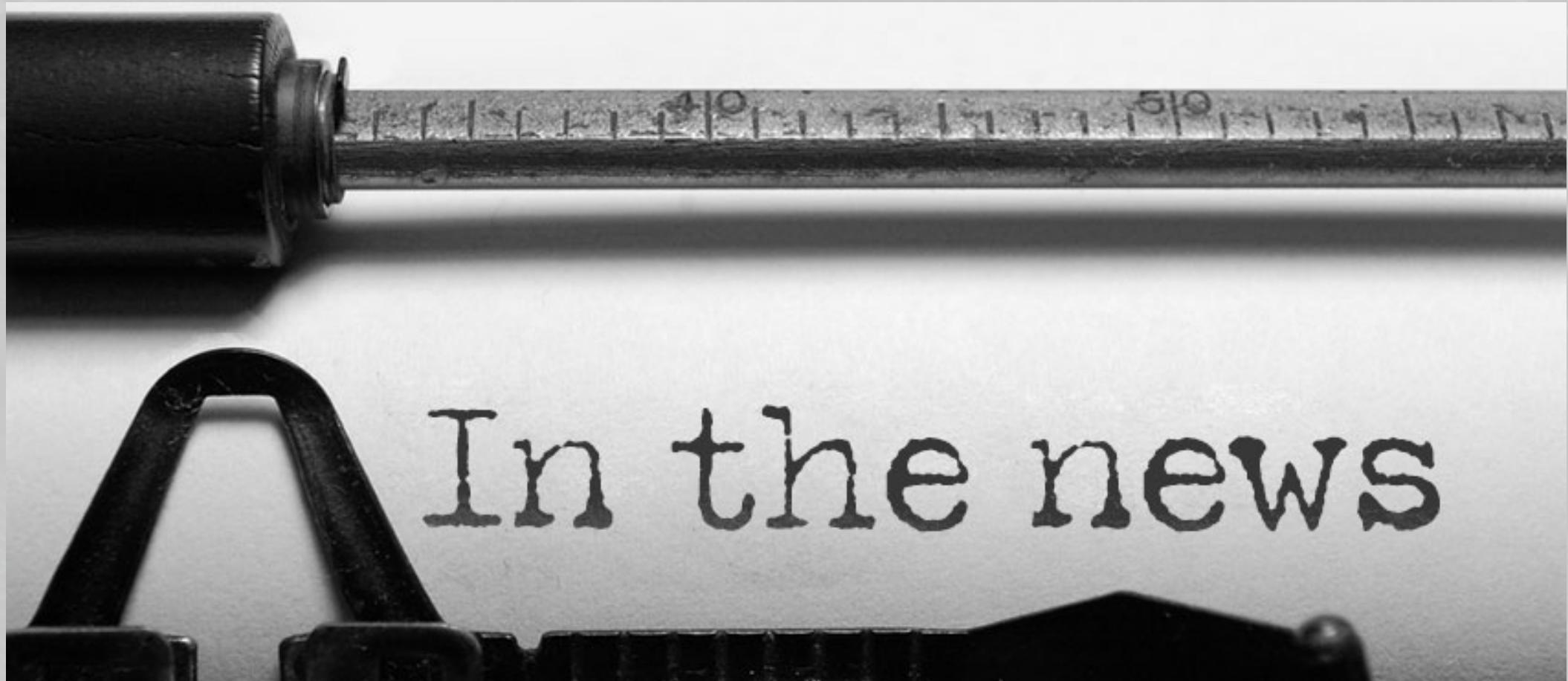


INFO 350

Freedom of Speech

INFO Policy, Law, and Ethics



Social Media Has Been Blocked For Over 24 Hours In Sri Lanka After The Deadly Explosions

Social media will remain blocked while security forces investigate the bombings.



Jane Lytvynenko

BuzzFeed News Reporter

Last updated on April 22, 2019, at 12:08 p.m. ET

Posted on April 21, 2019, at 4:31 p.m. ET

A statement from the Sri Lankan president's office [posted to the country's official news website](#) said that "the decision to block social media was taken as false news reports were spreading through social media."

- Online, there was widespread speculation about the person or group behind the bombings.
- News outlets published names of suspects that had not been verified by officials. One video that named a man in connection with the bombings, and showed a photograph, received hundreds of thousands of views across Twitter and YouTube.
- Websites that used years-old photos with incendiary headlines to promote those same names contributed to the spread of unverified information. Rumours also spread on WhatsApp and Facebook Messenger.

18:12



Azzam Ameen ✅
@AzzamAmeen

"Guys
Stick to your homes
Azzam (BBC) told me that many
explosives have found in many
areas around colombo which has
not been announced to public.
Please glue to your houses.
Its pretty unsecured out there.
As of him the plans of the
extremists have gone wrong
and now they have gone wild
like wounded animals and trying
to blast when and wherever as
anyway they will be caught"

17:56 ✓



Yudhanjaya Wijeratne ✅
@yudhanjaya



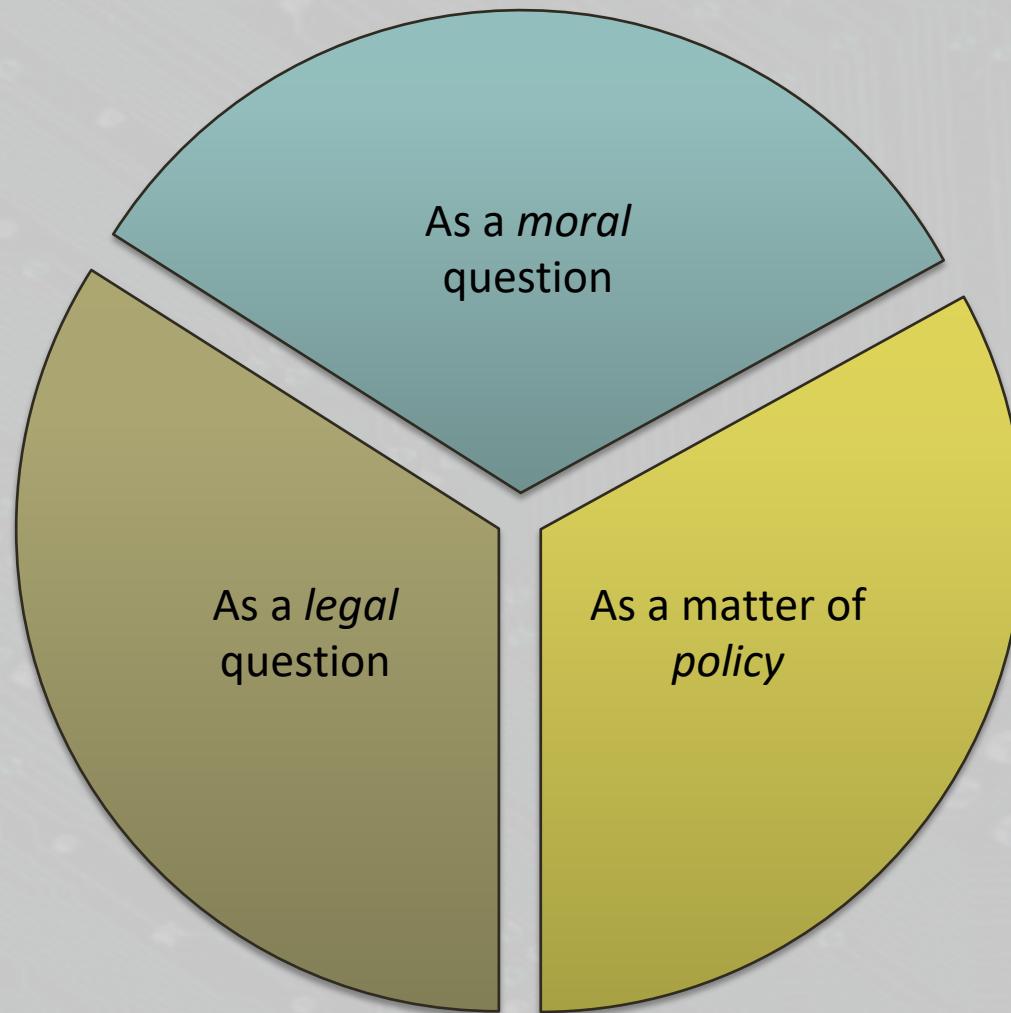
More [#mosinformstion](#): some friends are starting to receive a
fw'd WhatsApp message about the terrorists claiming inside
information via [@AzzamAmeen](#). Here is the message and
Azzam's response. Be vigilant. [#lka](#)

3 63 5:45 AM - Apr 22, 2019

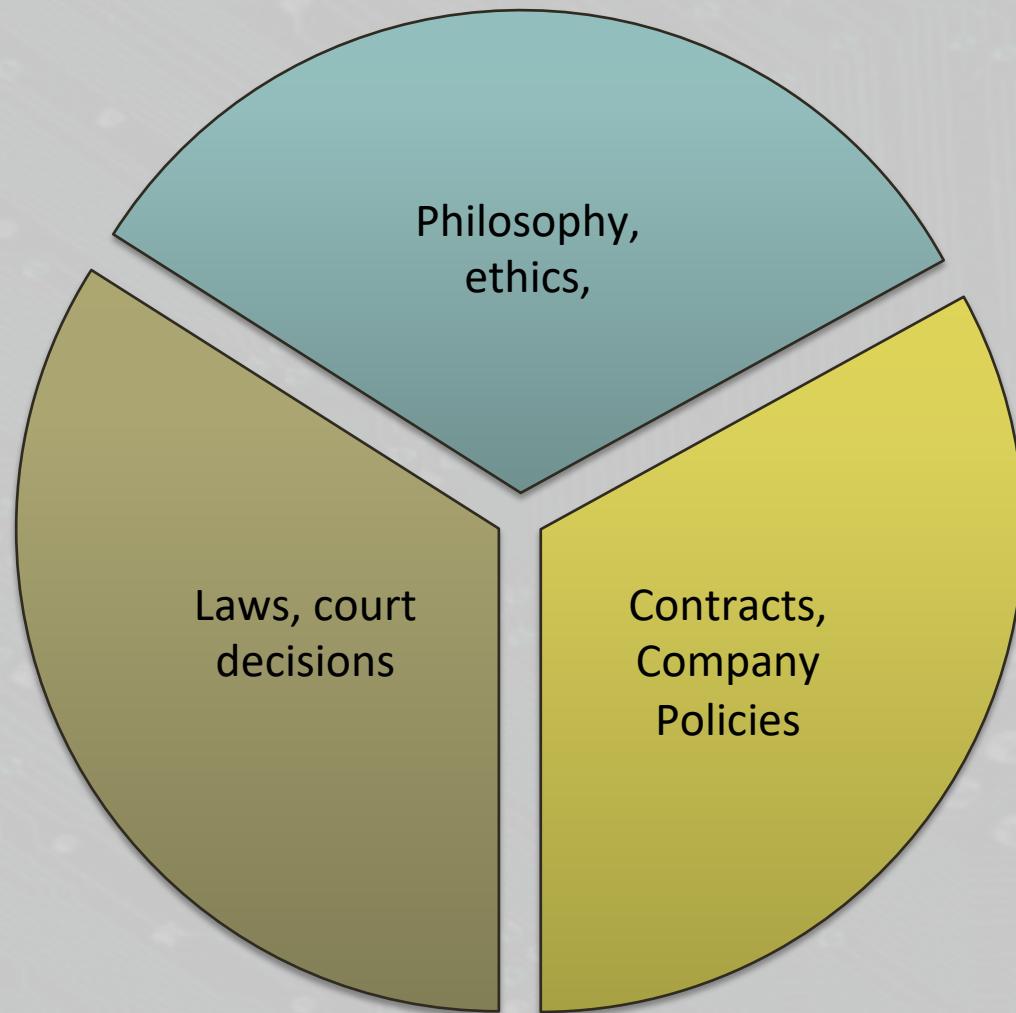
51 people are talking about this >

Speech – Moral, Legal, and Policy Dimensions

Speech Dimensions: Moral, Legal, Policy



Speech Dimensions: Moral, Legal, Policy



Censorship

Until the 1990s...

NEWMAN

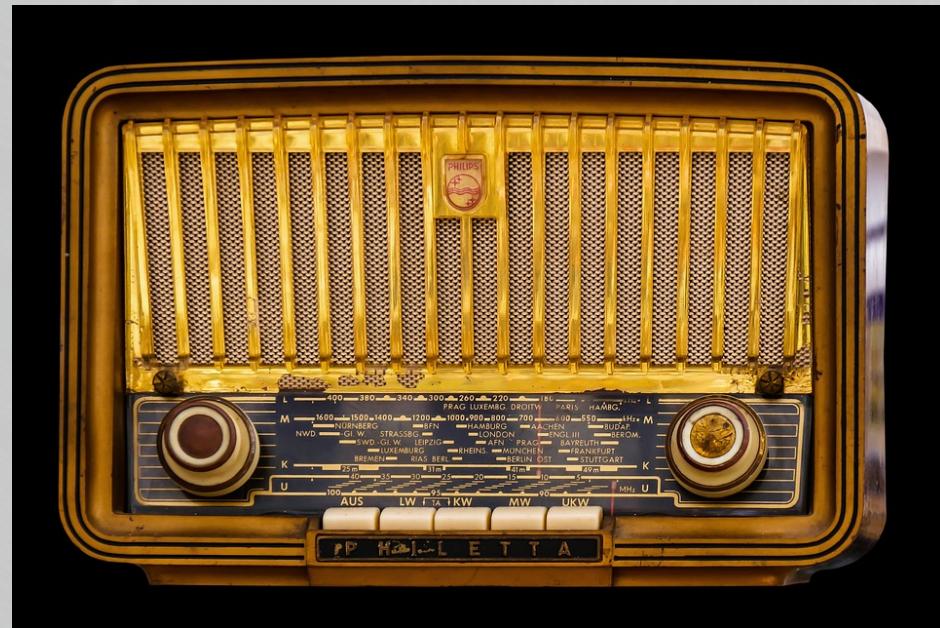


claimed the dog inflicted "Freddy" character in the "Nightmare on E



ents (o)

Until the 1990s



Until the 1990s...



Speech rights – moral and legal

- Speech rights are foundational to American notions of freedom and democratic governance
- But no right (legal or moral) is absolute

Legal foundations of speech:
The First Amendment to the US Constitution and subsequent court decisions over the years.

Moral foundations of speech rights: One *ought* to have the freedom to express oneself – politically, artistically, etc.

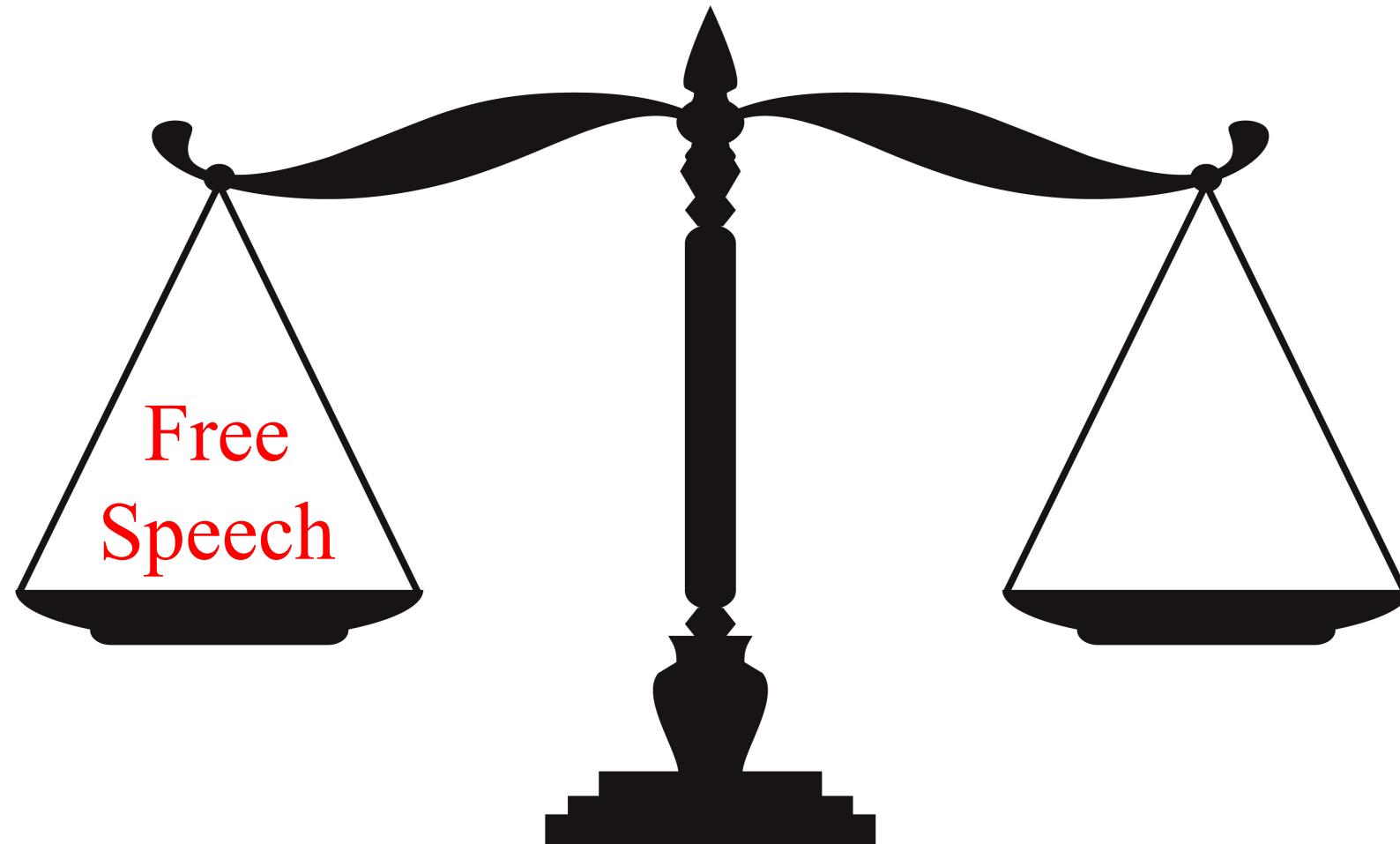
Value Tensions

Competing Interests or Obligations



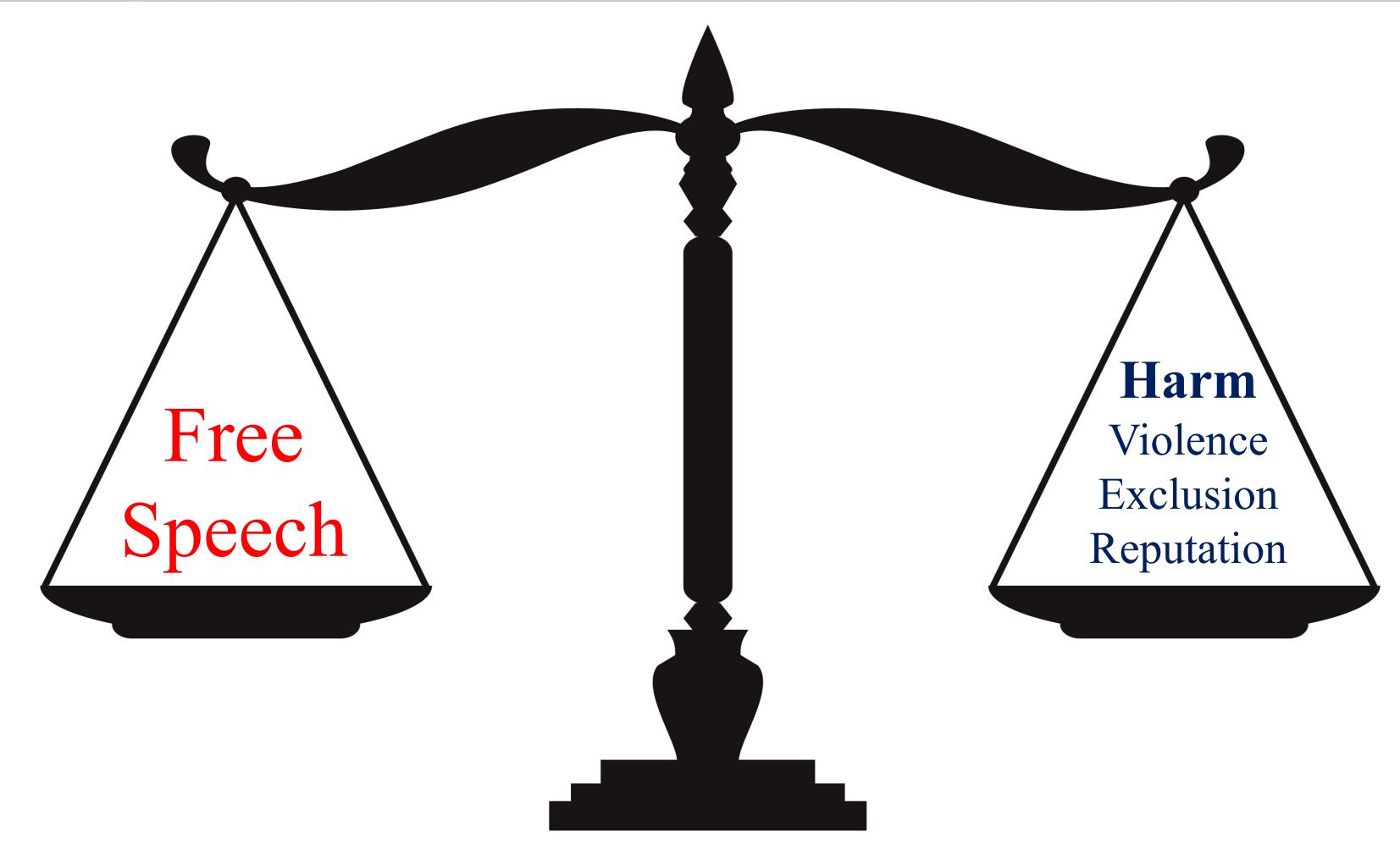
Value Tensions

Competing Interests or Obligations



Value Tensions

Competing Interests or Obligations



Free Speech

- What are the issues?
- Censorship
- Expression
- Rights

3.5 Government Censorship

Forms of Direct Censorship

- Government monopolization (communications, media)
- Prepublication review (state supervision)
- Licensing and registration (power to sanction, ban)
- Threats and violence (journalists, writers, etc.)

- Typically associated with “anti-democratic” countries

- Does the U.S. government censor?

Self-censorship

- Most common form of censorship
- Groups or individuals decide not to post/publish
- Reasons
 - Avoid subsequent persecution
 - **Maintain good relations with government officials** (sources of information)
 - Example from the book...
- Ratings systems created to advise potential audience
 - Movies, TVs, CDs, video games
 - MPAA – Hollywood has sometimes employed censorship for gov't

Challenges Posed by the Internet

- Many-to-many communications
- Dynamic connections
- Huge numbers of Web sites
- Extends beyond national borders, laws
- Hard to identify who is actually speaking online

Governmental Filtering and Surveillance on the Internet

- North Korea: Internet virtually inaccessible
- Saudi Arabia: centralized control center
- China
 - Blocks Internet access at times of social unrest
 - Has “one of most sophisticated filtering systems in the world” – (aka “the great firewall”)
- Germany: Forbids access to neo-Nazi sites
- United States: Repeated efforts to limit access of minors to pornography, access of adults to prostitution, etc.

3.6 Freedom of Expression

Free Speech in the Law

First Amendment protection and government regulation

- “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.”
- The First Amendment is a restriction on the power of government.
- It is not a restriction on the power of businesses (newspapers, radio stations, platforms, websites, etc.)

FCC v. Pacifica Foundation et al.

- George Carlin records “Filthy Words” in 1973
- WBAI in New York airs “Filthy Words”
- FCC regulates radio stations, and issues declaratory order to Pacifica
- Pacifica sues
- U.S. Supreme Court ruled FCC **did not** violate 1st Amendment (5-4 decision)
 - Broadcast media “uniquely pervasive”
 - Broadcasting uniquely accessible to children

Free Speech – Court Decisions

Speech Can Be Regulated by Gov't with Limitations

- Supreme Court principles and guidelines
 - Advocating illegal acts is (usually) legal.
 - Anonymous Speech is protected
 - Some restrictions are allowed on advertising.
 - Typically invoking “decency” and protection of minors (e.g. cigarette, liquor ads)
 - Libel and direct, specific threats are **not** protected.
 - Inciting violence is **not** protected.
 - But this is complicated...Preemption vs. post-hoc. Very difficult to prevent a speaker from speaking but less hard to hold her accountable afterwards.

Free Speech – Controversies

Recent Controversial Cases Display Protected Speech in Action:

- **Unite the Right march in Charlottesville, NC (2017)**
 - Federal judge upheld their right to march despite concerns about violence (one counter-protester was killed)
 - <https://www.usatoday.com/story/news/2017/08/11/charlottesville-braces-itself-yet-another-white-nationalist-rally-saturday/560829001/>
- **Proud Boys and other groups rally in Portland, OR (2018)**
 - City says that despite previous incidences of violence, they cannot preemptively ban the rally (rallies have typically become brawls)
 - <https://www.wweek.com/news/courts/2018/10/14/why-dont-portland-police-stop-the-proud-boys-from-brawling/>
- **Milo Yiannopoulos speech at UW**
 - Activists sought to prevent his speech due to fears of violence (but also because they did not like the speaker)
 - A shooting occurred outside of Kane Hall where he spoke
 - <https://www.seattletimes.com/seattle-news/crime/couple-charged-with-assault-in-shooting-melee-during-uw-speech-by-milo-yiannopoulos/>

Communications Decency Act – The weird and winding road to current legal framework for internet freedom

Free Speech – Offensive Speech

Offensive Speech

- Obscenity
 - Depicts a sexual act that is already against state law
 - Depicts acts in a patently offensive manner that appeals to *prurient* interest as judged by a reasonable person using community standards
 - Lacks serious literary, artistic, social, political or scientific value

Free Speech - Online

Offense *Online* Speech

- Recently, more effort has gone into attempts to restrain speech based protecting vulnerable people:
 - ❖ Misogyny and hostility based on gender
 - ❖ Racism, religious intolerance, anti-immigrant sentiment
 - ❖ White supremacist ideology, neo-Nazism
 - Revenge porn (non-consensual intimate media)
 - Twitter trolls, scary news sites, violent communities, 4Chan

Online Speech – How Did We Get Here?

- Communications Decency Act
 - aka “CDA” - part of the 1996 [Telecommunications Act](#)
 - Goal of the CDA was to limit offensive material online
 - Much of this act declared unconstitutional, but not all...
- **CDA §230:** No provider or user of interactive computer services shall be treated **as a publisher** of any information provided by another information- content provider.
 - Created “safe harbor” for internet platforms – no liability for speech of users.

Online Speech – How Did We Get Here?

CDA § 230

PROS

CONS

Enables new forms of business	Information empires profit from “free” labor of users
Gives users new ways to express and connect with others	Enables speech of questionable value or downright harm (e.g. threats, revenge porn, doxing)
Diminishes the role of “gatekeepers” (like newspaper publishers or record companies) and empowers regular folks	Companies avoid liability for bad behavior while profiting from it (e.g. YouTube showing ads next to copyrighted content)

Platforms – Responses and Criticisms

- Does this mean that internet platforms are a free-for-all of unhindered, unregulated speech?
- Internet platforms are not subject to the First Amendment
 - They are not government entities
 - Almost all of the internet is privately owned
- In theory then, only a platform's “terms of service” is the only arbiter of speech on their platform
 - Facebook's “Community Standards”
 - <https://www.facebook.com/communitystandards/>
 - Twitter's “Rules”
 - <https://help.twitter.com/en/rules-and-policies/twitter-rules>

Platforms – Responses and Criticisms

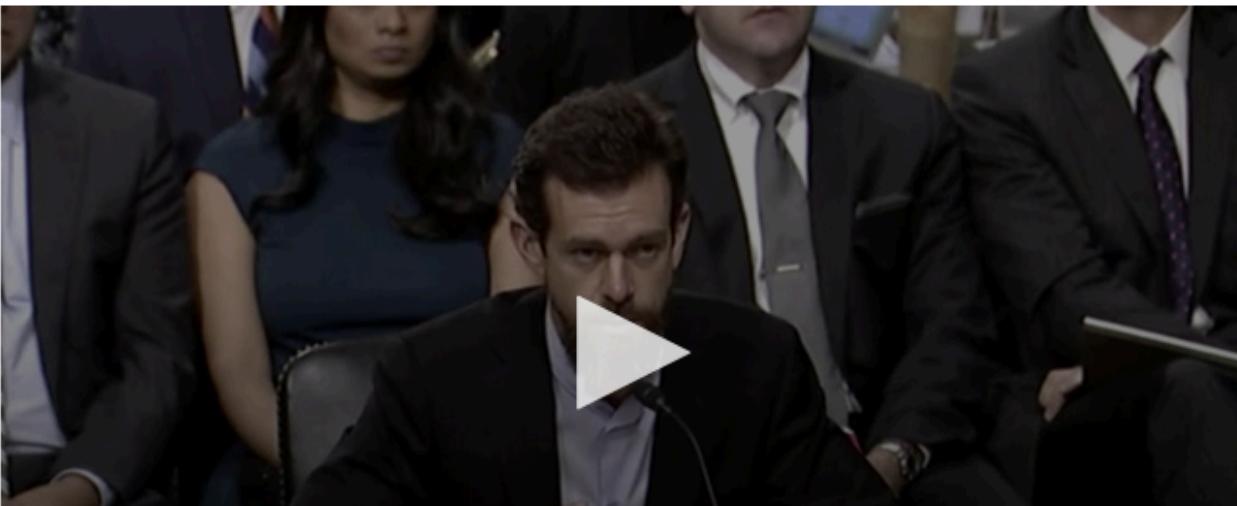
JACK DORSEY SAYS TWITTER IS A PUBLIC SQUARE MORE THAN 5 TIMES

[F SHARE](#)

[EMAIL](#)

[g+ SHARE](#)

[TWEET](#)



Felicia Day

@feliciaday

[Follow](#)

A public square is owned by the public. This is a money making venture. You use our freely given information to pay yourselves. This is a ridiculous comparison. A coffee shop would be expected to throw out racist abusers and harassers for the benefit of their customers.

jack @jack

Twitter cannot rightly serve as a public square if it's constructed around the personal opinions of its makers. We believe a key driver of a thriving public square is the fundamental human right of freedom of opinion and expression.

[Show this thread](#)

5:12 PM - 5 Sep 2018

4,436 Retweets 18,805 Likes



Platforms – Responses and Criticisms

- Some courts have said that Facebook, Twitter, etc. are “the new public square.”
 - If true, then *some* speech rights apply
 - Access to elected officials (no blocking allowed)

Sorry Politicians, You Can't Block Critics on Twitter

Courts have ruled that access to public figures on social media is a constitutional right.

BY ALAN GREENBLATT | SEPTEMBER 2018



Public Officials Can't Block Twitter Accounts (Contributed)

The courts have ruled that access to a public figure's social media is a constitutional right. So, why is this mayor blocking me from his Twitter account?

BY LINDSAY CRUDELE / SEPTEMBER 21, 2018



Judge found that Twitter is a “designated public forum” and blocking constituents is “viewpoint discrimination.”

Platforms - Responses and Criticisms

■ Content Moderation

- Platforms police their networks for illegal and offensive posts
 - Copyright infringement
 - Pornography (mainstream sites)
 - Reports of abuse
 - Bots
-
- The process is imperfect and subject to much criticism
 - Overreach (legitimate content/users blocked)
 - Ineffective (mean people left alone)

Discussion question (In-Lecture 4/23)

- Television and radio stations are subject to regulations for their content (indecency, other content restrictions)
- Internet platforms, under §230 of the CDA, are generally not subject to content restrictions. They “self-govern”

- If we are okay subjecting one type of major media to regulated speech, why not subject internet platforms to the same?
 - Would it be better to treat TV and radio like 4Chan and Reddit instead?

Case Study: Karina's Post

- Karina: Journalist working for CelebDirt.com but is friends with Lei.
- Lei: Up and coming actor, recently featured in Disney movie.
- At a friend's party, Lei accepts an offer of cocaine.
- Karina takes surreptitious pic of Lei doing drugs, posts it on CelebDirt.com
- CelebDirt post with Lei's drug pic gets a lot of traffic, posted on social media, picked up by other news/gossip sites, etc.
- Lei confronts Karina and demands she take down the post.
- Karina complies, apologizes to Lei.
- Lei gets favorable attention from post (previously thought to be "too clean-cut" for the edgier acting roles he wants)
- Karina's reputation ticks up for her "aggressive" journalism – with a heart

Kantian Analysis

- Karina posted photo of Lei without asking his permission
- She treated him as a means to her end of increasing her readership and reputation.
- Her action was wrong

Social Contract Theory Analysis

- Party was “invitation-only” by one of Lei’s actor friends
- Lei had a reasonable expectation of privacy
- Karina violated Lei’s right to privacy
- Karina’s action was wrong

Act Utilitarian Analysis

- Benefits
 - Karina's post gets a lot of attention (definitely)
 - Lei gets a reputation "makeover" that helps career (definitely)
- Harms
 - Lei feels ambushed by Karina (definitely)
 - Some fans, directors, etc. might be turned off (uncertain)
 - Photo could discredit Lei in other ways (uncertain)
- Benefits greater than harms, so Karina's act is "good."

Rule Utilitarian Analysis

- What if everyone were constantly taking surreptitious photos at unguarded moments?
- Positive consequences
 - Fans and the public would know more about who celebrities really are
 - People might be more reluctant to participate in socially transgressive activities
- Negative consequences
 - People would become more self-conscious, risk averse
 - Relationships would be harmed (reduced trust)
- Negative consequences more weighty than positive consequences, so Karina's action was bad

Virtue Ethics Analysis

- True **friends** trust each other and seek each other's good
- Reciprocity and equality are fundamental elements of friendship
- Lack of reciprocity: Karina took something from Lei without intending to give him anything in return
- Lack of equality: Karina put her own interest above that of Lei
- Karina's actions did not seem to be characteristic of a good friend

Summary

- Four out of five analyses: Wrong for Karina to post the photo without asking Lei's permission
- Karina figured it would be better to beg for forgiveness than ask for permission, but she cut Lei out of a decision that affected both of them, and that's no way to treat a friend
- Karina should have tried to get Lei's consent