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# The Impact of Law on Public Discourse and Communication

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## **ABSTRACT**

This paper examines the intricate relationship between legal systems and public discourse, emphasizing how laws both shape and are shaped by communicative practices across different societies and historical periods. By tracing the historical evolution of communication laws—from ancient oral traditions to the complex realities of the internet age—the paper demonstrates how legal frameworks regulate public expression, speech, and media engagement. Key areas of focus include freedom of speech, censorship, defamation, hate speech, social media regulation, and emerging trends in digital communication law. Special attention is given to the power dynamics inherent in communication regulation and the global divergence in legal norms. The study highlights the growing tension between ensuring open communication and protecting societal values, proposing that the law serves as both a constraint and enabler of discourse. Through case studies, international comparisons, and legal theory, this work contributes to a deeper understanding of the role of law in shaping the possibilities and limits of public communication in a rapidly evolving media landscape.

**Keywords:** Communication Law, Public Discourse, Freedom of Speech, Censorship, Defamation, Hate Speech, Social Media Regulation.

## **INTRODUCTION**

In communication studies, it is clear that law significantly influences public discourse. Research reveals how law communicates and defines the context of communication, determining what can be expressed and acknowledged. While exploring why laws are created, scholarship also examines how legal frameworks and communication practices interact. The law codifies interventions and limits that frame public communication and shape political identities, such as bans on protests and libel laws, thereby constraining public discourse. Conversely, communication influences how law is understood and enacted, particularly through language and media. This dynamic raises complex questions about how communicants perceive the role of law across different societies and eras and why these perceptions vary globally. Furthermore, the discursive construction of law impacts its analysis within communication scholarship. Normatively, discussions focus on what constitutes effective law regarding openness and communicative rights. Debates on human rights laws involving privacy, military secrecy, and libel are critical in shaping public communication parameters. The First Amendment tradition, which advocates for broad free speech protections, is seen as promoting a public sphere of engagement that counteracts power dynamics, despite some judicial exceptions. In globalization, the rising regulatory powers of states and private entities challenge this notion, where untrammelled freedom of expression is vital. Critics argue that this perceived freedom often intertwines with power dynamics, with Nordic and Canadian models exemplifying laws that acknowledge the inherently power-laden nature of communication [1, 2].

### Historical Context of Law and Communication

Communication law's history stretches from ancient oral traditions to contemporary democracies. This project examines the evolution of communication laws, providing insights for tackling modern issues. By analyzing historical trends and obscured details, the project emphasizes how states manage communication practices. In ancient times, control was focused on spoken language, influenced by city-state environments. Recent communication advancements have outpaced existing laws, leading to tensions between state governance and societal behavior. The project aims to shed light on this evolving dynamic. Between 1844 and 1845, a new electronic transmission technology enabled instant communication, significantly altering human interaction. This innovation rendered previous legal frameworks, such as free-speech laws from the 13th century and the Select Vestries Act of 1831, obsolete. The potential for rapid state suppression of dissent was recognized as early as 1830, during the National Movement, with collective protests around social concerns. The impact of this technology became evident at Chartist meetings in 1839, but the government did not fully acknowledge its implications until 1854, following the establishment of underground communication by French refugees, enabling subversive speeches in London. Concerns regarding securing the new technology emerged in 1854 and 1858, leading to the creation of the Electrical Protection Co. Ltd., which implemented communication interception systems in prisons. By April 1857, these structures underwent significant adjustments [3, 4].

### Legal Framework Governing Public Discourse

Public discourse is shaped by societal norms, legal frameworks, and complex regulations. Different societies possess various legal structures that govern communication, including constitutional rights, basic statutes, regulations, and case law. Broad constitutional provisions generally outline the extent to which freedom of speech is protected or limited, significantly influencing communication practices. Such laws also empower governments to regulate or censor media, particularly when content is unpopular. The protection of speech varies widely across legal systems globally, with some countries, like the U.S., having influential constitutional protections, particularly from the First Amendment. Over time, local policies and judicial interpretations have defined the nature of lawful discourse, often challenging existing power structures. Numerous incidents illustrate these complexities. For example, LaRoy wanted to challenge superstitions surrounding Friday the 13th but was warned by police against violating gathering ordinances. Balcom criticized Folkearth Talk for lacking audience interaction, but the publication had no policy to address such concerns. Moreno sought media coverage for his views on global warming but was informed there was no obligation for coverage. Roxie attempted to distribute conspiracy theories on campus but was stopped by security and faced arrest for non-compliance with regulations. Local laws can significantly affect access to discursive resources, making communication logistically challenging; for instance, Zunbar mentioned obstacles in finding open dialogue spaces due to burdensome labeling requirements. Legal structures often overlap on various levels, creating tensions between local and national laws. International law can influence the terminology and interpretations used in local jurisdictions, complicating legal reform regarding discourse. As communication practices evolve rapidly, legal systems struggle to adapt, sometimes leading to overly restrictive regulations. Essential legal structures that influence public communication include the regulation of time, place, and manner of speech and the classification of public versus non-public forums. These frameworks aim to balance the protection of speech with government responsibilities in regulating communication. Finally, other legal issues impacting public discourse include private communications, defamation, obscenity, child pornography, and the disruption of officially sanctioned events [5, 6].

### Freedom of Speech and Its Limitations

Freedom of speech is a fundamental aspect of democracy, enabling open discourse and expression among citizens. However, this right has recognized limitations that vary by country. Generally, free speech may be restricted to protect public safety, enforce laws, safeguard national security, or uphold the rights and reputations of others. The U.S. Supreme Court has defined categories of speech not protected under these rights: incitement of crime, fighting words, obscenity, defamation, fraud, child pornography, and some forms integral to criminal acts. Defining harmful speech presents philosophical and legal challenges, particularly regarding the nature and scope of harm, whether physical or metaphorical, direct or indirect. Issues surrounding pornography serve as a case study; feminist scholars have urged a re-examination of its societal impacts, asserting that it degrades and objectifies women, calling for its treatment as distinct from other speech in rights discussions. Balancing the need to prevent harm with the preservation of

freedom is essential, considering societal values that laws should reflect. In diverse societies, the definition of harm becomes complex, and determining which groups hold power in this discourse is contentious, especially in the internet age. Many nations impose restrictions on free speech, with some prohibiting support for terrorist activities. In the U.S., regulations on various products continue to be debated, indicating the need for a consistent approach that balances freedom with protection. Criminal acts must remain punishable, but there is a fine line between protecting liberties and veering into authoritarianism. Thus, fostering openness while avoiding paranoia remains crucial [7, 8].

#### **Social Media and The Law**

Social media has exploded into culture and is well embedded into daily habits. As the dominant social networking site, Facebook, opened to the public in 2006, few imagined the implications of a networking profile. Facebook's growth is staggering, sustaining over one billion users. Yet, the cultural movement is even more phenomenal as social media sites such as YouTube, Twitter, Google+, and LinkedIn mate over a billion users to sites created in the last decade. It did not take long for the implications of this technological revolution on every industry. The legal field is not the extent of that impact. Social media has lent a dramatic impact to the practice of law, changing both the way it is practiced and even the laws that are applied. Social media law is not a discrete area but rather a new method of leveraging existing areas of law. From the criminal cases where rap lyrics are the basis of a conviction to the divorce cases in which Facebook posts worsen marital separations, the impact of social interaction is felt far and wide in the law. Since the dawn of Facebook, every legal practitioner has accommodated this social powerhouse. As the laws develop to encompass personal rights in social interactions, the legal community is grasping how to interact within these forums. The social media revolution is in a state of rapid transformation. Already, trends can be glimpsed and patterns discerned from this new generation of network communication that pitch out valid lessons to practitioners in different levels. This book is designed to explore the high-level risks and concerns that social media site raises and provide a framework for considering these problems and potential solutions. Social media is a broad term to encompass any number of sites and applications that are thematic at the intersection of communications and information technology. Social media sites are bound by sites such as Facebook, LinkedIn, Myspace, and Google+. However, such sites are simply one aspect of social media. YouTube, Wikipedia, and Skipe are better outselling places where users monitor some content that is placed. However, the concept of social media is even larger than the narrow concept of communication on these large social platforms. In reality, social media is an area where information orbits the Internet and is broadcast or shared conversationally [9, 10].

#### **Hate Speech and Public Discourse**

One contentious issue regarding law and public discourse is hate speech regulations. In the globalized media age, the Internet has enabled individuals to spread hateful ideas across borders easily. National definitions and regulations of hate speech vary widely. In the U.S., hate speech is not protected by the Constitution but is rarely prosecuted, unlike many European countries that impose penalties on even mildly bigoted speech. For example, Brigitte Bardot faced prosecution in France for her comments about Muslims. Rwanda's tragic history exemplifies the dangers of unchecked hate speech, where the media instigated the genocide of 800,000 individuals in 1994. The U.S. identifies as a "free speech" zone, constrained by the First Amendment, which prohibits Congress from restricting speech. Conversely, most European nations have enacted hate speech laws, upheld by the European Court of Human Rights. Societally, hate speech can lead to harmful outcomes. Countries with fewer restrictions on free speech may trust news outlets to responsibly inform the public about potential hateful threats. Proponents of comprehensive hate speech laws argue that these laws effectively minimize the ability of extremist groups to influence public opinion against vulnerable populations. These bans not only prevent speech inciting violence but also prohibit offensive remarks. Hate speech differs from hate crimes, as the former is verbal and non-participatory. Some legal violations, like perjury and insider trading, showcase harmful consequences regardless of their speech content [11, 12].

#### **Defamation and Its Consequences**

Defamation is a legal concept addressing the impact of communication on reputation, with internationally recognized principles, though laws vary by jurisdiction. In common law areas, plaintiffs face challenges in proving defamation by showing the communication was published to a third party and identifies them in a harmful manner. Libel refers to written defamation, while slander pertains to spoken words. Once

established, the burden shifts to the defendant to prove the truth of the statement. Defenses include qualified privilege, statutory privilege, and fair comment. Landmark cases outline the principles of balancing an individual's reputation against the public's right to information. Defamation affects individuals and organizations when they are defamed, while also influencing third parties who spread such information. The mass media is significantly concerned with defamation, which aims to safeguard reputation amid competing public interests. Reputation is crucial for an individual's social standing, self-image, and self-worth. It's also a private matter that underpins liberty and is essential for conducting business and participating in society effectively [13, 14].

### **Censorship and Its Effects**

Censorship is one of the most feared things for effective public discourse and open communication. It is the governmental action of censoring the mass media, and public institutions may censor other material. Censorship defines what people can and cannot hear, read, see, and learn. Additionally, self-censorship is the social practice of refraining from expressing thoughts, ideas, and beliefs out of concern that they might be thought of as intolerable to the society or unacceptable to the government. Censorship can affect many aspects of life, such as art, music, and literature, sexually explicit content and nudity, and political materials. However, too strict a censor system can lead to even more negative consequences than good ones: limit of communication and creativity; narrow of the diversity of ideas, and induce too strict control of power. Nations and societies will also suffer. There is always an argument for the minimum degree of such control; thus, which most societies are arguing for. These arguments and justifications of the need for such controls vary over time and place; however, as a dominant species, we love to censor freedom, it would seem. It is beyond debate that in certain situations, censorship or control is required; for example, it may affect national security, or it's done to maintain political stability, religious tradition, and social convention. The often-oppressive effects of censoring materials may only be felt by the average person indirectly. Public institutions, such as schools, libraries, and theaters, may also censor materials, thereby affecting the intellectual freedom of the community and diminishing its quality and range of ideas and knowledge; however, these institutions do not arbitrarily wield censorship powers and have been particularly wary of public-democracy implications. Given the power of censorship and the many areas in which censorship can affect communications and affect the way people live and comprehend the world, there is a strong case for accountability and transparency in any system of regulation. Such control and monitoring are, of course, essential for the benefit of society and the overall lens of public interest; there is also the need to strike a healthy balance between freedom and regulation [15, 16].

### **The Role of Media in Shaping Public Discourse**

The media shapes public discourse and opinion by enhancing information access and freedom of opinion, key components of democracy. It enables expression, criticism, and diverse viewpoints, holding governments accountable and providing transparency for informed citizen choices. The media exposes governmental abuses and inefficiencies, necessitating electoral laws to regulate campaign advertisements. Ownership of broadcast stations, often privatized, influences media dynamics, while public forums during elections allow all parties to present their platforms for voter education. To foster development, increasing media channels and awareness of media misuse in elections is crucial. Media services need broadcasting licenses and must comply with laws governing public engagement. Journalists must navigate legal reporting limits, and ownership structures impact both public and private media, with state control potentially skewing information. Media concentration, both horizontal and vertical, can lead dominant entities to influence content and advertising, marginalizing alternative media. Key principles of media practice include impartiality and objectivity, especially in political turmoil. New technologies expand news consumption choices, enhancing discourse and countering conspiratorial tendencies. Thus, media reflects and shapes societal norms, raising awareness of issues like crime and corruption, although it may also lead to rigid public opinions and misconceptions about political contexts [17, 18].

### **Emerging Trends in Communication Law**

For as long as legal structures have existed, they have regulated communication. Law has served as an effective medium for delivering viewpoints and achieving goals. As communication methods evolved, legal regulations also diversified. The technological revolution at the end of the 20th century marked not just the rise of computers and the internet but an exponential advancement in technology. Lawmakers face the challenge of keeping pace with rapid innovations and evolving societal norms. This situation has caused a reactive legislative approach, often lagging behind market changes. The recent advancements in

blockchain, AI, and data law will fundamentally alter legal communication. The internet and social networking introduce further complexities, making it challenging to predict legal changes, which often depend on those in power proposing specific legislative outcomes. Instead, the focus will be on critically analyzing the implications of emerging trends on the legal landscape. Developments possess dual implications based on perspective and application, indicating that regulatory challenges will require new multifaceted viewpoints in communication law. While increased online platforms have facilitated free speech, entities managing speech cannot be liable for others' speech. This raises questions about the moderation decisions made by these platforms. The removal of traditional media gatekeeping has led to a pluralist model of speech governance, contrasting with a previous technocratic model with heavy regulation. Currently, there are three competing theoretical frames for determining the liability of widely used online communication platforms [19, 20].

### **International Perspectives on Communication Law**

This legal feature impacting communication relates to sovereignty. Law can possess juridical power within micro-communities but often holds prescriptive behavior power in larger digimorphic states, demonstrating persuasive force or normative behavior in legal norms. Thus, law requires prescriptive policy content, supported by symbols that reflect community acceptance. Furthermore, the influence of law transcends geographic boundaries, with varying degrees of persuasive communication aiming toward international law and human rights initiatives. Statutes and treaties establish internationally normative behaviors and community attitudes. Policies are crafted either for specific cases or to shape prevailing persuasions, flowing from general principles to specific instances. Differing jurisdictions necessitate legal communication, as community attitudes may lack the dissuasive impact against certain behaviors or shift from being affective to normative. The preservation of the rule of law regarding foreign investment remains contentious. Nation-state diplomatic protection often proves ineffective for dispute resolution, whereas micro-communities may need specialized investment law practices. Without effective international judicial venues, investments risk arbitrary state actions. Disparate judicial approaches in international law can limit deference to national courts, leading to critiques of panel reports in domestic arenas. Such feedback, sometimes instigated by national bar associations, highlights the interactive role of domestic courts in shaping international investment standards. This inquiry emphasizes the importance of domestic fora in adjudicating foreign investment protections [21, 22].

### **Public Policy and Communication**

Discussions on media and development, governance, and policy formulation invariably lead to the topic of public policy, which involves interactions with governments, the UN, and other organizations influential in shaping society through legal instruments. Policies emerge from proposals for new laws, crafted by governments and regulatory bodies, affecting how civil society and industry operate. The legal environment is shaped through consultations with legislative bodies, enabling significant legislative measures with far-reaching consequences. International policy and regulatory developments have increased, necessitating stakeholder consultation to base regulations on social needs and economic realities, balancing public interests with industry needs. Political entities, civil organizations, and industries contribute to new regulations aimed at promoting competition and universal access while reflecting societal values. Future policy discussions encompass a variety of public policy issues influencing communication regulations, from England's forthcoming Communications Bill to media regulation in Europe and digital rights access. As innovations in communications accelerate, ensuring that public policies remain nuanced and inclusive becomes increasingly challenging. A culture of evidence-based policy-making is essential for laws to effectively support open public discourse [23, 24].

### **Case Studies of Legal Impact on Public Discourse**

This paper discusses public discourse and the influence of law on communication. Building on this, we explore specific case studies showing the implications of communication law. The first case focuses on libel, crucial for anyone writing articles or letters. Under common law, libel involves published defamatory statements. The definition changed in the early 1990s to allow direct insults to an individual, so long as they aren't further disseminated. Today, many cases are deemed "non-actionable," but plaintiffs still face the challenge of proving falsehood, fault, and reputational harm. The second case, less known but equally important, concerns prior restraints and searches of newspapers, which threaten free press protections under the First, Fourth, and Fourteenth Amendments. Despite their significance, these terms are often misunderstood. They relate to the concept of a "watchdog function" in protecting freedom, a

phrase absents in the Constitution but invoked in numerous lawsuits against journalists. Recently, discussions around these issues have been met with silence, reflecting a lack of awareness or understanding around these critical legal challenges [25, 26].

### CONCLUSION

The law plays a foundational yet complex role in structuring public discourse. Across eras and regions, legal systems have operated both as protectors of communication rights and as mechanisms of control, often reflecting broader societal power structures. The expansion of digital communication platforms has intensified the need for nuanced legal responses, with lawmakers grappling to balance free expression, public order, and individual dignity. As this study demonstrates, the intersection of law and communication is not static—it evolves alongside technology, political ideologies, and cultural values. Understanding this dynamic interplay is essential not only for scholars and legal practitioners but also for communicators, activists, and policymakers committed to fostering inclusive, accountable, and vibrant public spheres. Future developments in AI, privacy, and international governance will further test the capacity of legal systems to uphold communicative freedoms while addressing new forms of harm and influence. As such, a vigilant, adaptive, and participatory approach to communication law remains essential in shaping equitable societies.

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