

Examining The Legal Implications of Social Media Bias Against Pro-Palestinian Voices

دراسة الآثار القانونية لتحيز منصات التواصل الاجتماعي ضد الأصوات المؤيدة للفلسطينيين

Mahmoud Khennour¹ PhD Student, University of Kasdi Merbah Ouargla,
khennour.mahmoud@univ-ouargla.dz

Dr.Ahmed Khedidji²
University of Kasdi Merbah Ouargla (Algeria), kdj.ahmed30@hotmail.fr

Received: 02/12/2023

Accepted: 29/03/2024

Published: 12/06/2024

Abstract:

The growing usage of social media platform has led to the emergence of crimes committed through these platforms. In response to the legal obligations, social media companies have imposed content moderation procedure on user's generated content to avoid legal implication of potential misuse. However, this mechanism has been used unethically to implement a discriminatory censorship against the Pro-Palestinian voices, showing bias towards the Israeli narrative. these practices raise inquiries about the legal nature of these companies as mere internet service providers, further to the legal ramifications for committing discrimination, the act prohibited under international human rights treaties and various national legislations worldwide.

Relying on an analytical approach, this study aims to shed light on the continuous violations of Palestinians' rights to freedom of opinion, expression, and equality by social media platforms. we will scrutinize the legal and jurisprudential perspectives, while also reviewing the possible solutions to empower the Palestinian community in practicing and enjoying their digital rights.

Keywords: Pro-Palestinian voices; social media; Content Moderation; Bias

ملخص:

تشغل منصات التواصل الاجتماعي حيزا كبيرا في الحياة اليومية لأغلب سكان العالم، وهذا الاستعمال المتنامي صاحبه ظهور جرائم يتم ارتكابها بواسطة هذه المنصات، مما استوجب على هذه الشركات فرض رقابة على المحتوى الذي ينشره المستخدمون، إلا أن هذه الآلية يتم بشكل تمييزي ضد المحتوى المتعلق بالقضية الفلسطينية، متحيزة بذلك الى الجانب الإسرائيلي والمساهمة غير المباشرة في الجرائم المرتكبة في حق الفلسطينيين. وهذا التحيز يطرح تساؤلات حول الطبيعة القانونية لهذه الشركات ومدى كونها مجرد مزود خدمات الانترنت، الى جانب الآثار القانونية لارتكابها جريمة التمييز المحضورة بموجب المواثيق الدولية وكل التشريعات الوطنية حول العالم. تهدف هذه الدراسة وبالاعتماد على المنهج التحليلي الى تسليط الضوء على

* Corresponding author.

الانتهاكات المتواصلة لحقوق الفلسطينيين في حرية الرأي والتعبير والمساواة من طرف منصات التواصل الاجتماعية والتبعات القانونية لهذه الممارسات، كما تستعرض مختلف وجهات النظر القانونية والفقهية، والحلول الممكنة لتمكين الشعب الفلسطيني من حقوقه الرقمية.
كلمات مفتاحية: الأصوات الفلسطينية؛ منصات التواصل الاجتماعي؛ الإشراف على المحتوى؛ التحيز

I. Introduction:

In the contemporary digital era, social media platforms serve as the global hub for information dissemination, dialogue, and the expression of diverse voices. However, this virtual domain is not exempt from the negative impact of human biases and political undercurrents, that can affect the visibility and treatment of specific narratives. Of particular concern is the evident bias in content moderation by social media platforms, where Palestinian-related content often faces disproportionate review, suppression, and, at times, unjustified censorship.

Silencing The Pro-Palestinian voices on social media platforms has sparked concerns regarding the neutrality, of these digital behemoths, their equity, and compliance with ethical obligations. Whether due to algorithmic biases, geopolitical pressures, or a blend of both, the ramifications of such content moderation bias have profound legal implications. extended through the landscape of international law, human rights, and the digital era's governance.

Moreover, the legal implications of content moderation bias against Palestinian content intersect with broader questions surrounding the rights of marginalized communities, the right to information, and potential violations of international human rights laws.

Based on the above, the following legal question is posited: What legal implications arise from the discriminatory policies applied by social media platforms against pro-Palestinian content?

Through this paper we seek to investigate the ambiguity of content moderation policies applied against Pro-Palestinian content and its legal ramifications within various jurisdictions in order explore the legal possible pathways to hold social media platforms liable for human rights abuses.

For better addressing our topic, we followed the below research plan:

I.The Pro-Palestinian Content in the Realm of Social Media

I.1- Social Media Content Moderation

I.2- Silencing Pro-Palestinian Voices

II.The Legal Implications of Social Media Content Moderation

II.1- Assessing Social Media Platforms' Liability

II.2- Legal Pathways Amid Challenges

II. The pro-Palestinian Content in the Realm of Social Media

The Palestinian right to free speech in the age of social media raises worrying questions. While these platforms have empowered users to express their perspectives and advocate for their rights, they enforce a biased censorship over pro-Palestinian content, often spreading disinformation and fostering hatred against them. such practices raised criticisms about the ambiguous mechanisms and policies applied by social media platforms in content moderation.

I.1- Social Media Content Moderation

The use of social media is experiencing an unprecedented rise. According to the latest statistics, there are more than 4.8 billion users around the world. (Dixon, 2023) The most popular platform is Meta, formerly known as Facebook, with 3.03 billion users. Meta also owns four of the biggest social media platforms, all with over one billion monthly active users each: Facebook (core platform), WhatsApp, Facebook Messenger, and Instagram. (Gaboriault, 2022)

The widespread use of social media platforms led to the emergence of new types of crimes committed in the digital space, such as verbal offences, extortion, incitement to violence, disinformation...etc. And in order to deal with this new form of offenses, social media companies have resorted to tech solutions to police users' content on their platforms at scale, hence many of them are increasingly relying on automated solutions based on Artificial Intelligence (AI) and Machine Learning (ML) algorithms, with dire consequences on human rights.

I.1.1 Content Moderation Strategies

Content moderation can be described as the process of reviewing, filtering, and removing content that violates the laws, or the terms of use. (Roberts, 2017, p. 4). Content moderation is typically implemented as an AI human-hybrid process. To scale with the large amount of harmful content generated online. (Jiang, Robertson, & Christo, 2020, p. 1)

According to estimates, the digital content moderation industry is projected to reach \$8.8 billion in 2022, roughly double the 2020 total. Meta (formerly Facebook), in particular, is the biggest client of companies that undertake outsourced content moderation contracts, with more than 15,000 moderators, out of a total of 200,000 worldwide, work for Facebook contractors. (Papaevangelou & Smyrniaios, 2022, p. 11).

There are different types of content moderation strategies implemented by social media platforms, depending on their source model, user base, AI technology, and goals. Some of common strategies are:

Pre-moderation: This strategy consists of reviewing and approving content before being published on the platform. This can ensure a high level of compliance, but it can also slow down the content creation process and limit users' engagement. For example, Facebook platform allows group administrators to pre-moderate posts before being published on the group, this features can enhance the process of eliminating illegal content and avoid its negative consequences.

Reactive moderation: This method depends on users' reporting or complaints to flag content that violates the platform guidelines or policies. Most of the platforms implement this strategy. This solution can lower the workload of moderation, but it can also depend on the accuracy and swiftness of users' comments.

In the Christchurch terrorist shooting, Social Media faced a severe criticism about the late suppression of livestreamed graphic video, despite of receiving many alerts generated by

Examining The legal implications of Social Media Bias Against Pro-Palestinian Voices.
Mahmoud KHENNOUR

users. Facebook responded that the video was re-posted with more than 800 version, making the suppression of the same more difficult (Gorwa, Binns, & Katzenbach, 2020, p. 2).

Proactive moderation: This strategy involves using of AI models such as “Linformer”, “RoBERTa”, and “XLM-R”, used by Meta and YouTube platforms to detect and remove harmful content. (Wang, Belinda, & Khabsa, 2020, p. 6)

According to Meta’ CEO Mark Zuckerberg: More than 95% of the hate speech that we take down is done by an AI [artificial intelligence] and not by a person. . . . And I think it’s 98 or 99% of the terrorist content that we take down is identified by an AI and not a person. (Feerst, 2022, p. 2)

On the other hand, this strategy has encountered increasing controversies, as well as criticisms from scholars. Criticisms revolve essentially around the following questions: Why are we using AI to make decisions about online expression? Why would we delegate something this important to nonhumans? What exactly are we using it for? How good is it at it? How would we know if it’s any good at it? How good is good enough? What happens if and when it turns out to be less good at it than we hoped? (Feerst, p. 2)

Initially, human solutions offering more sensitivity, accuracy, and accountability than AI models, however it is more costly, subjective, and sometimes inconsistent. Therefore, social media platforms trying to balance the trade-offs between different mechanisms and find the optimal mix for their specific needs and goals. (Gorwa, Binns, & Katzenbach, p. 9)

Why Social Media Content Moderation Matters

There are many reasons that compel social media to invest in content moderation, below are the most important reasons:

- Social media companies are compelled to adhere to the legal obligations applied to their activities in different jurisdictions. In order to avoid or minimize the risks of high financial penalties that may arise from violating the laws or regulations that govern online content, including hate speech, intellectual property, defamation, or other common law offences . (UNHR, 2021)
- One of the main goals that social media companies work to achieve is: Preserving their reputation and brand image in the eyes of their users, advertisers, partners, investors, and regulators. (UNHR, 2021)

I.1.2. Content Moderation Deficiencies

The content moderation process has faced raising antitrust concerns from various perspectives, worrying mainly revolve around the following points:

The Lack of transparency from social Media platforms regarding the backgrounds of their decisions related to users’ content moderation, and doubts about the impartiality of employed moderators. (Benesch, 2023, p. 605) According to various sources, in May 2020 Meta and under pressure from the US Zionist lobby, has appointed a former Israeli official in its oversight board.. The oversight board is a body assigned review and decide on content moderation for both Facebook and Instagram platforms. The ex-Israeli official is Emi Palmor,

who had previously served as the director-general of Israel's justice ministry from 2014 to 2019. This appointment has been criticized by various human right activist, raising concern about the neutrality of Meta Company about the Israeli-Palestinian Conflict. (7amleh, 2020).

Social media companies, particularly Meta, face substantial pressure from the Israeli government and pro-Israel groups in USA. As a response, Meta signed a memorandum with the Israeli government in 2016 seeking to enhance their collaboration with law enforcement authorities. (Greenwald, 2016) Consequently, social media platforms engaged in anti-Palestinian campaign, arbitrarily blocking activists accounts, profile, and pro-Palestinian pages. (Sharaf, 2021)

Ineffectiveness of AI models and Algorithms used by social media, as these technical solutions consistently failed to detect and remove illegal content, especially when we take in consideration of the ambiguous definition of what constitutes illegal content that must be censored. (Gillespie, 2020, p. 3)

I.2- Silencing The Pro-Palestinian Voices

Legitimate concerns arise regarding the selective implementation of content moderation rules when it comes to the content related to the Israeli-Palestinian conflict. Based on various sources, including human right organizations, and medias agencies, they have simultaneously reported concerns regarding the recent social media platforms practices against pro-Palestinian content. (Brosolo, 2021), “ Facebook has suppressed content posted by Palestinians and their supporters speaking out about human rights issues in Israel and Palestine,” said Deborah Brown, senior digital rights researcher and advocate at Human Rights Watch. (Brown, 2021).

For instance, “Adalah” center, a Palestinian NGO human rights organization, reported that the number of deplatforming content by the Israeli Cyber Unit rose by 500 percent in 2017, just one year after its establishment. Furthermore, there were 14,285 reported content takedowns in 2018. (Adalah, 2021).Furthermore, Facebook’s algorithm deletes any posts that contains specific words without even checking the context: including Hamas, Jihad, Saraya and Jabha Sha’bya which all are names of Palestinian political groups, in addition to the word ‘Shahed’ which is Arabic for martyr. On the contrary, ‘Zionist’ is listed as a ‘globally protected group’ where any content which opposes Zionism should be removed. (Suhail, 2020, p. 8)

Another incident that proves the discriminatory decisions of certain social media platforms. In April 2021, Facebook platform, Zoom, and YouTube had blocked an online academic event titled "Whose Narratives? What Free Speech for Palestine?" The event was co-sponsored by various organizations, including the Arab and Muslim Ethnicities and Diasporas (AMED) Studies program at San Francisco State University. It was intended to feature anti-apartheid activists from different region of the world, such as Palestinian resistance icon Leila Khaled and South Africa's former ANC military leader Ronnie Kasrils. (Febrian, 2021)

Especially, this event was a duplication of a previous open classroom event co-organized by Dr. Rabab Ibrahim Abudulhadi (AMED Studies) and Dr. Tomomi Kinukawa (Women and

Examining The legal implications of Social Media Bias Against Pro-Palestinian Voices.
Mahmoud KHENNOUR

Gender Studies) at San Francisco State University, which Zoom platform had initially censored in September 2020. On both occasions, social media companies, including Zoom, justified their decision to block the event from their platforms due to Leila Khaled's planned participation. They argued that Khaled's affiliation with the Popular Front for the Liberation of Palestine (PFLP), considered as a "US-designated terrorist organization," could potentially violate US laws prohibiting material support for terrorism. However, As consistently asserted by numerous legal experts, the arguments put forth by the social media companies are groundless. They argue that it not only ignores relevant legal precedents, but also constitutes an offence against academic freedoms. (Zahzah, 2021). In the same context, another human rights watch article published on 2021 sheds light on social media complicity in silencing pro-Palestinian voices by over-censoring their particular content under the guise of enforcing their community standards.

The article pointed out that these actions not only refrain Palestinians from sharing their experiences and perspectives, but also contribute to a broader narrative that favors one side of the conflict. The article accused Facebook of removing posts, suspending accounts, and limiting the reach of content that addresses critical human rights issues in the Israeli-Palestinian context. (Brown, 2021).

In 2016, a Palestinian activists launched an online campaign against Facebook's overenforcement of community standards regarding pro-Palestinians content. This was prompted by the suspension of two editors of daily newspaper accounts without any prior notice. Both accounts have more than 5 million followers. The Palestinians activists decided to stop any posting on Facebook platform for two hours as a way to protest against Facebook's biased decisions influenced by the internal agreements with the Israelis authorities which had led to the oppression of their rights to free speech. Eventually, Facebook apologized and said it was by 'mistake', without providing any further explanation. (Suhail, p. 8)

Above reports shed light on social media Human rights abuses. The process of content moderation potentially can lead to a range of human rights abuses, including discrimination, hate speech, incitement to violence, privacy violation, and fair process. However, the right that is essentially impacted by social media practices is the right to freedom of expression. Pursuant to Article 19(2) of the ICCPR of 1966. (Sander, 2019, p. 970).

In response to these criticisms, in 2018 Meta company established an oversight board to make decisions on content moderation on the Facebook and Instagram for the aim of "promoting freedom of expression", The board's apparent objective is not to provide due process or meaningful review of the appropriateness of content policy, but rather merely to reduce "mistakes", (Klonick, 2020, p. 2418) However the cadence of over-censoring against pro-Palestinian content didn't change. (Almehdar, 2021, p. 210).

Considering that the most of criticism raised against Meta platforms, the company commissioned a "human rights due diligence exercise" by the nonprofit consultancy Business for Social Responsibility (BSR) to review the impact of its content moderation policy on users' freedom of expression. The key finding of BSR report advised that "Meta" should spare itself from "silencing voices" and "reinforcing power asymmetries" to address Israeli-

Palestinian conflict. (Benesch, p. 608) The report attributes the origin of the conflict to an imbalance of power where Israel have greater administrative, financial, and military resources than Palestinian political institutions possess. This suggests that subjective power balances should not be the sole reference point for assessing social media posts concerning incitement or support for terrorism. It also raises questions regarding possible bias and lack of transparency in content moderation process, as well as possible influence of political advocacy organizations over the enforcement of Meta's Community Standards. Furthermore, BSR's report reveals the structural and systemic biases that shape Meta's content moderation in the Israel/Palestine context, and the ways in which these biases favor the Israeli narrative and suppress the Palestinian one. (BSR, 2022).

III. The Legal Implications of Social Media Content Moderation

Interacting with user's content by social media platforms and the bias practiced against Palestinian content may have legal implications. Holding social media platforms accountable for racial discrimination, incitement to hatred, and spreading disinformation is a very possible matter. hereafter, the legal aspects of possible human right abuses committed by social media platforms through their suspected role.

II.1- Assessing Social Media Platforms' Liability

The controversies about Social Media responsibility are ongoing, within the circles of jurisprudence and legal discourse when it comes to the illegal content published by users. Simultaneously, the matter of user content moderation has generated considerable debate, with many scholars and law experts, contending that such intervention may result in social media companies losing their status as mere Internet Service Provider.

Within this ongoing debate, we distinct between two perspectives, the US approach, which grant social media platforms with immunity against any lawsuits related to user-generated content. On the other hand, the European perspective which is considered more stringent stance on the matter of social media legal accountability.

II.1.1- The US Immunity

The U.S. legislator grant immunity for social media companies under the First Amendment, which shields them from being prosecuted for content posted by their users. In addition to Section 230. Which is a provision of the Communications Decency Act of 1996, a federal law regulating internet service provider activities in the United States. (Bloch-Wehba, 2021, p. 1304). However, it's important to note that this immunity is not absolute, there are boundaries that social media should respect. The Act States that:

- 1) No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.
- 2) No provider or user of an interactive computer service shall be held liable on account of any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected. (DCA Act, 1986)

Examining The legal implications of Social Media Bias Against Pro-Palestinian Voices.
Mahmoud KHENNOUR

Above clauses of Section 230 shields social media companies from being sued for the content posted by their users, as long as they act in good faith to moderate or remove harmful or objectionable content. However, Section 230 immunity is not absolute or unlimited. There are some cases where social media companies might lose the protection of Section 230. Some of these cases materialize:

A-When Social media platforms practice activities similar to an information content provider. That means the platform itself creates or develops content in whole or in part. For example, if a social media platform edits or modifies the user's content in a way that adds new meaning or message, or in case if they pay or incentivizes users to create certain types of content, here the status of platform will convert from ISP to “ Publisher” or “speaker”. Based on that, many legal scholars and law specialists believe that social media platforms, by utilizing Algorithms that select the content shown to its users based on their engagement, (Stray, Iyer, & Larrauri, 2023, p. 17) lose their immunity in the basis of changing their role from mere internet service provider to a new role, closely similar to an “information content provider”. Therefore, it is widely possible to hold them accountable for not restricting illegal content in their platforms as long as they are aware of it.

B- When a social media company does not act in good faith to restrict access to the content considered harmful or objectionable, it means that if the company intentionally allowed illicit content on its platform, or selectively censors content, based on its own interests or biases. Exactly what social media platforms do with pro-Palestinian content. Offenses that may expose these giant Techs to a legal repercussions. (Gillespie, 2017, p. 202).

The controversies about legal immunity under section 230 act is a heated and ongoing between its defenders and opponents (Chachko, 2021, p. 99). Supporters believe that the role of Section 230 act in enabling the growth and innovation of the internet and social media has been widely acknowledged, as it allows online platforms to host a variety of content and opinions without fear of being punished or censored.

The defenders believe that Section 230 is an embodiment of the US First amendment, as it protects the constitutional rights of users and platforms, fosters creativity and diversity. Therefore, any platform intervention on online content would violate the “First Amendment” provisions, hinder innovation, and cause a negative effect on freedom of expression (Wilson & Land, 2021, p. 1034).

On the other hand, the opposers of section 230 pleading to repeal the act, as they believe it grants too much immunity and power to social media companies, at the expense of public safety and democracy (Chachko, p. 108). While other scholars assume that Section 230 should be reformed or amended, since the act failed to address the current challenges posed by online platforms, such as hate speech, misinformation, extremism, and other harmful content. Therefore, they propose some amendment, such as limiting its scope or applicability, imposing more obligations on online platforms, creating more exceptions or exemptions for certain types of content, establishing more oversight or enforcement mechanisms.

As a result of ongoing debate, many US senators submitted bills aiming to amend or reform the section 230, including:

The Safe Tech Act, submitted by Senators Mark Warner, Mazie Hirono, and Amy Klobuchar in February 2021. This bill seeks to limit the section 230 immunity by creating several exceptions for cases including civil rights violations, human rights abuses,

harassment, cyberstalking, antitrust violations, or wrongful death. It will also allow users to seek injunctive relief against social media platforms that fails to remove harmful content and oblige them to disclose their moderation mechanisms and practices (MacCarthy, 2021).

The Online Freedom and Viewpoint Diversity Act, introduced in September 2020, by Senators Roger Wicker, Lindsey Graham, and Marsha Blackburn. This bill aims to amend section 230 of the Communications Act of 1934 to modify the scope of protection from civil liability for “good Samaritan” blocking and screening of offensive material. It proposes amendments to Section 230, specifying conditions for liability protection. It aims to enforce an objective reasonableness standard for content moderation, replacing vague terms with specific categories like 'promoting terrorism' or 'unlawful' content. Furthermore, it seeks to redefine 'information content provider' to exclude superficial alterations, focusing on substantive modifications by individuals or entities. (Wicker, 2020).

Bipartisan Internet PACT Act, or “The Platform Accountability and Consumer Transparency (PACT) Act”, another bill introduced by Senators Brian Schatz and John Thune in June 2020¹. This bill would impose more obligations on online platforms, including clear disclosure of content moderation practices in an easily accessible acceptable use policy. It would enforce online platforms to issue biannual reports, details about removed, demonetized, or deprioritized content, and encourages sharing best practices via a National Institute of Standards and Technology-led framework. (Schatz, 2023)

By Examining previous Bills , we notice the appearance of new legal trend is US legal circles, opposing the immunity granted to social media companies, advocating to hold them accountable, as these online platforms have repeatedly violated human rights principles outlines in various international charters, particularly the right to freedom of expression enshrined in Article 19 of International Covenant on Civil and Political Rights, further to the right to non-discrimination, and access to the internet.

If these bills successfully pass, Palestinian activists will have an effective legal avenues to sue these platforms and ask for remedies within the US courts for violating the Palestinian right to free speech and non-discrimination.

II.1.2 - The EU Standards

The European approach regarding social media legal responsibility grounds on the principle of human dignity, which is enshrined in the European Convention on Human Rights and the 1st article of European Charter of Fundamental Rights. (Kingston & Thornton, 2015, p. 18) Both the American and European legislations recognize the right to freedom of expression, but European legislations imposes certain limitations on this right, in compliance with the article 19 and 20 of the international covenant on civil and political rights of 1966, (Marks, 2019, p. 22) such as the protection of the rights of others, national security, public order, or public health.

The European Laws addressing social media platforms such as, The General Data Protection Regulation Act (GDPR) (Chico, 2018, p. 111), The Digital Services Act (DSA) (Folkert, 2023, p. 2) and The Digital Markets Act (DMA) (Moskal, 2022, p. 1113), and The Code of Practice on Disinformation (Nenadi, Brogi, & Bleyer-Simon, April 2023). favor

legal regulation and oversight of online platforms, imposing heavy fines on online platform that breach the provisions of Laws in force. (Gillespie, p. 208)

The essential obligations imposed by GDPR act on social media operating within the European jurisdiction revolve around the below key points:

- Removing illegal or harmful content within a reasonable time frame.
- Establishing effective complaint mechanisms for users to flag illegal content.
- Providing periodic transparency reports and information to authorities and users about the enforcement of “ Terms of Service” and compliance with local particular laws.
- Cooperating with local law enforcement authorities s
- Cooperating with civil society organizations and trusted flaggers.

Therefore, social media platforms can be sued from any European court in case of proven violation of above obligations enshrined in different laws in force. (Chico, 2018)

II.2- Legal Pathways Amid Challenges

The possibility of prosecuting social media companies from European jurisdictions remains one of possible legal pathways that Palestinian activists living in European countries can use to sue social media for human rights abuses.

II.2.1- The German NetzDG

Germany has a strict and comprehensive legal framework for regulating online content and services, especially for large social media platforms, such as Meta, X (formerly Twitter), TikTok, and YouTube.

The Network Enforcement Act (Netzwerkdurchsetzungsgesetz, NetzDG), which requires social media platforms to remove or restrict illegal content, such as hate speech, incitement to violence, or defamation, within a specific timeframe and with clear justifications. (Bloch-Wehba, p. 1333) The law also imposes fines up to 50 million euro for non-compliance. (Heldt, 2019, p. 4).

The law passed at the end of June 2017, and came into force on January’s 1st 2018, but its application faced a lot of criticism from various quarters, including social media companies, law specialists, scholars, and even from Director of Thematic Engagement for UN Human Rights Ms. Peggy Hicks who declared that “ nearly every country that has adopted laws relating to online content has jeopardized human rights in doing so.” she added “ We need to sound a loud and persistent alarm, given the tendency for flawed regulations to be cloned, and bad practices to flourish”. (Hicks, 2021).

In anyways, The German NetzDG act remain a possible legal avenue for Palestinian activists to sue social media companies for their offences against Palestinian community. Moreover, Social media companies can also be prosecuted under Germany jurisdiction if they violate European laws or regulations framing social media platforms activities, such as data protection, consumer protection, competition, or fundamental rights.

II.2.2- The Austrian KoPI-G Act

Examining The legal implications of Social Media Bias Against Pro-Palestinian Voices.
Mahmoud KHENNOUR

The Austrian Government has re adopted a new law (Communications Platform Law, Kommunikationsplattformen-Gesetz, or KoPI-G) similar to the German NetzDG. The new act obliges online platforms to remove illegal content (in relation to 15 criminal offenses, some of them related to hate speech type offences, such as insult or stalking, but including others like child pornography and terroristic content) within a certain timeframe after being notified by users or authorities.

The law also Enables the Austrian Communications Authority (KommAustria) to impose fines of up to €10 million or 6% of the platform's annual turnover for non-compliance. However, the law faced criticisms from legal scholars and law specialists, as the act does not define what constitutes illegal content and leaves it to local laws and courts to define it, which could lead to divergent interpretations and applications across Austria. The law also does not address the issue of extraterritorial jurisdiction, as most of the social media companies are based overseas and may not comply with the KommAustria's requests or orders, which may pose a legal challenges for authorities to enforce it. (Eberwein, Krakovsky, Oggolder, & Rozgonyi, 2022, p. 8).

Further critics have raised concerns about negative implications of the act, as it could push online platform to over-censor of user' content that might be legal to avoid the heavy fines, which could lead to a violation of users' freedom of expression. (Grüll & Lawton, 2020)

The German, UK, and Austrian acts provide some legal pathways from where binational Palestinians or those residing in European countries can sue social media for human rights abuses, this from theoretical perspective. However, prosecuting US giant Techs is a challenging task that will not be easy to overcome.

II.2.3- Challenges To Be Considered

Prosecuting social media companies practically is a challenging task. Due to several Factors:

Firstly, the economic importance of social media companies for the United States. For example, Meta Company achieved a turnover of approximately \$117 billion between 2010-2023. (Marcotrends, 2023). Further, a recent study commissioned by the Interactive Advertising Bureau (IAB) and led by a researcher from Harvard Business School, found that the internet economy grew seven times faster than the total U.S. economy during the past four years, and now accounts for 12 percent of the U.S. gross domestic product (GDP) ,within 7% of social media contribution. This sector created Over 7 Million Jobs in the Last Four Years. (IAB, 2021)

The Zionist lobby in USA have a strong influence over Social media companies, they harmonize their strategies to ensure the adherence of these Giant Techs with their political agenda. purportedly to serve the Israeli interests. The Zionist lobby in USA is considered as the most powerful and influential lobby in Washington DC, infiltrated in all public and private sectors, with access to high-level officials, media, lawmakers, and all other sectors. (Sadek, 2022, p. 457)

Criticisms directed at social media platforms regarding their legal nature and their suspicious roles in influencing public opinion are not limited to the Palestinian issue or the

Rohingya crisis only, but rather criticisms come from US political circles. According to various sources, social media companies have been accused of using their power and influence to shape public opinion, censor certain viewpoints, sway elections, and lobby for favorable policies (Emily, Andrew, & Monica, 2020, p. 3). Some of these allegations have been supported by evidence, such as the Cambridge Analytica scandal (Hinds, Williams, & Joinson, 2020), the Russian interference in the 2016 US presidential election (Fordoński & Kasprzak, 2018, p. 115), the spread of misinformation and disinformation during the COVID-19 pandemic, and the suspension of former President Donald Trump's accounts on Twitter and Facebook. (Benesch, p. 609)

Moreover, The legal costs and complexities of filing a lawsuit against social media companies in the US courts or even within foreign legal jurisdictions may require considerable financial resources to cover many tasks such as hiring lawyers, gathering evidence, witnesses, identifying defendants, overcoming defenses, and obtaining damages or injunctions, matters that will not be easy to fulfil.

IV. Conclusion

The Palestinian people endure a persistent struggle on their life, through the persecution and aggression of Israeli occupation . On top of this, social media platforms exacerbate their suffering by restricting their right to free expression and taking defense of their just cause in the digital age. The discriminatory policies applied by social media platforms against Palestinian content make them subject to legal accountability for violating the regulations governing social media activities, both from American or European jurisdictions, as well as those of many countries worldwide, such as India, China, and Canada.

It is necessary to acknowledge the difficulty of prosecuting social media platforms within the American judicial system, due to political and economic considerations. However, countries and international stakeholders are required to establish an international legal framework to govern social media platforms worldwide. This framework would obligate these companies to:

- Respect the users' right to freedom of expression.
- Respect the national laws in the counties where they operate.
- Collaborate with national law enforcement authorities by providing them the necessary information about content that violate the local law.
- Taking swift action to remove illegal content that may threaten national security.
- Enforcing social media companies to be more transparent about their policies and mechanisms applies to filter users' content.

Finally, human rights activists should make greater efforts to have their voice heard and exert pressure on social media platforms to maintain neutrality and enable Palestinian voices to have their right to freedom of expression and to ensure equal access to technology without discrimination or bias.

The criminal prosecution of social media platforms, although it is a complex process, remains legally possible with the concerted efforts of jurists and human right activists to seek justice for Palestinians.

References:

- Tamleh. (2020, May 11). *Palestinian civil society organisations raise alarm over the selection of Emi Palmor, former General Director of the Israeli Ministry of Justice, to Facebook's Oversight Board*. Retrieved December 1, 2023, from Association for Progressive Communications: <https://bit.ly/3t82jZk>
- Adalah. (2021, April 12). *Israeli Supreme Court green lights Israel's 'Cyber Unit' that works with social media giants to censor user content*. Consulted on Dec 01, 2023, sur Adalah.org: <https://bit.ly/3sXs6nc>
- Almehdar, A. (2021). **Freedom Of Expression On Social Media Platforms: Facebook's Moderation Behavior On Palestine's May 2021 Movement**. *International Law and Politics*, pp 207-219.
- Arqoub, O. A. (2019). **Engineering of Consent: Analysis of the Israel Lobby's Facebook Discourse in the US**. Gazimağusa, North Cyprus: Eastern Mediterranean University.
- Benesch, S. (2023). **Content Moderation Needs Auditing at Scale, Starting With Israel and Palestine**. *University of the Pacific Law Review*, 54(4), pp 604-611.
- Bloch-Wehba, H. (2021). **"Forthcoming. Content moderation as surveillance"**. *Berkeley Technology Law Journal*, 36. pp 1297-1340.
- Brosolo, L. (2021, June 05). **«Facebook : des employés dénoncent une "censure" de contenus pro-palestiniens sur le réseau social»**. Consulted on Dec 01, 2023, sur France24.com: <https://bit.ly/47SzVcu>
- Brown, D. (2021, Oct 8). **"Israel/Palestine: Facebook Censors Discussion of Rights Issues"**. Retrieved Dec 1, 2023, from Human Rights Watch: <https://bit.ly/4129mzo>
- BSR. (2022, Sept). **"Human Rights Due Diligence of Meta's Impacts in Israel and Palestine in May 2021"**. Consulted on Dec 1, 2023, By BSR Organization: <http://bit.ly/3uzJHlo>
- Chachko, E. (2021). **"National Security by Platform"**. *Stanford Technology Law Review*, 55(1). pp 57-140.
- Charis Papaevangelou & Smyrnaioi Nikos. (2022). **"The Case of a Facebook Content Moderation Debacle in Greece"**, *Journalism and Digital Content in Emerging Media Markets*, pp 9-26.
- Chico, V. (2018, Dec). **"The impact of the General Data Protection Regulation on health research"**. *British Medical Bulletin*, 128(1), pp 109-118.
- DCA Act, T. E. (1986, Oct 21). *Section 230*. Consulted on Dec 1, 2023, on US Code: <https://bit.ly/3T9bwv8>
- Dixon, S. J. (2023, Aug 29). **"Number of Social Media Users Worldwide from 2017 to 2027."** . Consulted on 20/10/2023. Consulted on Oct 20, 2023, link to Statista: www.statista.com/statistics/278414/number-of-worldwide-social-network-users/
- Eberwein, T., Krakovsky, C., Oggolder, C., & Rozgonyi, K. (2022). **"Country case studies on critical junctures in the media transformation process in Four Domains of Potential ROs (2000–2020)"**. Media Delcom.
- Emilya, V., Andrew, P., & Monica, A. (2020). **"Most Americans Think Social Media Sites Censor Political Viewpoints"**, Pew Research Center, pp 1-19.

Examining The legal implications of Social Media Bias Against Pro-Palestinian Voices.
Mahmoud KHENNOUR

- Febrian, R. (2021, May 12). **“Digital Apartheid: Israel's Systematic Way Of Silencing Voices For Palestinian Liberation Via Social Media”**. Retrieved Oct 16, 2023, from VOI - Waktunya Merevolusi Pemberitaan: <https://bit.ly/3T7kmtw>
- Feerst, A. (2022). **“The Use of AI in Online Content Moderation”**. Retrieved from American Enterprise Institute pp 1-10 Retrieved from <https://bit.ly/3T71cUC>
- Folkert, W. (2023, Jan 8). **“The Digital Services Act (DSA)”** - An Overview. *Nederlands tijdschrift voor Europees recht (Papers SSRN)*, 1-21. doi:<http://dx.doi.org/10.2139/ssrn.4304586>
- Fordoński, R., & Kasprzak, W. (2018). **“Alleged Russian interference in the 2016 US presidential election and prohibition of non-intervention”**. *Studia Prawnoustrojowe*, 42. pp 113-136.
- Gaboriault, M. (2022, Jan 26). **“Digital 2022 Report Finds Social Media Users Now Equivalent to 58 Percent of the World's Total Population”**. Consulted on Oct 20, 2023, source: businesswire.com: <http://bit.ly/3GvaUZ7>
- Gillespie, T. (2017). **“Platforms are not intermediaries”**. *Georgetown Law Technology Review*, 2, pp 198-216.
- Gillespie, T. (2020, July). **“Content moderation, AI, and the question of scale”**. *Big Data & Society*, 7(2), pp 1-5. doi:<https://doi.org/10.1177/2053951720943234>
- Gorwa & Binns & Katzenbach. (2020). **“Algorithmic content moderation: Technical and political challenges in the automation of platform governance”**. *Big Data & Society*, 7(1), pp 1-15.
- Greenwald, G. (2016, September 12). **“Facebook Is Collaborating with the Israeli Government to Determine What Should Be Censored”**. Retrieved October 16, 2023, from The Intercept: <https://bit.ly/47zxZpN>
- Grill, P., & Lawton, S. (2020, July 24). **“Austria's Online Hate Speech Law Prompts Question Marks about “Over-blocking”**. Consulted on Nov 22, 2023, Retrieved from EURACTIV: <https://bit.ly/3R53GQL>
- Heldt, A. P. (2019). **“Reading between the lines and the numbers: an analysis of the first NetzDG reports”**. *Internet Policy Review*, 18(2). pp 1-18.
- Hinds, J., Williams, E. J., & Joinson, A. N. (2020, Nov). **“It wouldn't happen to me”: Privacy concerns and perspectives following the Cambridge Analytica scandal”**. *International Journal of Human-Computer Studies*, 143. doi:<https://doi.org/10.1016/j.ijhcs.2020.102498>
- IAB. (2021, Oct 18). **“Study Finds Internet Economy Grew Seven Times Faster than Total U.S. Economy, Created over 7 Million Jobs in the Last Four Years”**. Consulted on Nov 10, 2023, From: The Interactive Advertising Bureau (IAB) : <https://bit.ly/3T7jWTH>
- Jiang & Robertson & Wilson . (2020). **“Reasoning about political bias in content moderation”**. *the AAAI Conference on Artificial Intelligence* (pp. 13669-13672). USA: AAAI.
- Kingston, S., & Thornton, L. (2015, Nov 05). **“Report on the Application of the European Convention on Human Rights Act 2003 and the European Charter of Fundamental Rights”**. Dublin: University College Dublin. doi:<http://dx.doi.org/10.2139/ssrn.2686537>
- Klonick, K. (2020). **“The Facebook Oversight Board: Creating an independent institution to adjudicate online free expression”**. *The Yale Law Journal*, 129, pp 2418-2499.
- MacCarthy, M. (2021, March 17). **“Back to the future for Section 230 reform”**. Consulted on Dec 1, 2023, Retrieved from: BROOKINGS: <https://bit.ly/4a4KbQI>

Examining The legal implications of Social Media Bias Against Pro-Palestinian Voices.
Mahmoud KHENNOUR

- Marcotrends. (2023). “**Meta Platforms Revenue 2010-2023 / META**”. Consulted on Nov 14, 2023, Retrieved from: Marcotrends: <https://bit.ly/3Gry9TY>
- Marks, S. (2019). “**Human Rights: A Brief Introduction**”. *Harvard School of Public Health*, 1-25.
- Meta. (2023, Jan 1). “**Oversight Board**”. Consulted on Oct 10, 2023, Retrieved from: Meta Transparency Center: <https://bit.ly/47CG0Ku>
- United Nations Human Right Office *Moderating online content: fighting harm or silencing dissent?* (2021, July 23). Retrieved Oct 20, 2023, from United Nations Human Right Office: <https://bit.ly/47SiqZQ>
- Moskal, A. (2022). “**Digital Markets Act (DMA): A Consumer Protection Perspective**”. *European Papers*, 7(3), pp 1113-1119. doi:DOI: 10.15166/2499-8249/615
- Nenadi, I., Brogi, E., & Bleyer-Simon, K. (April 2023). “**Structural indicators to assess effectiveness of the EU’s Code of Practice on Disinformation**”. European University Institute . San Domenico di Fiesole (Italia): Robert Schuman Centre for Advanced Studies.
- Roberts, S. T. (2017). “**Content Moderation**” . *Encyclopedia of Big Data*, pp 1-15.
- Sadek, M. D. (2022). “**The American Jewish Lobby’s Method of Influence on American Politics**”. *Journal of Law, Society and Authority*, 11(1), pp 454-472.
- Sander, B. (2019). “**Freedom of expression in the age of online platforms: The promise and pitfalls of a human rights-based approach to content moderation**”. *Fordham International Law Journal*, 43(4), pp 939-1006.
- Schatz, B. (2023, Feb 16). “**Schatz, Thune Reintroduce Legislation To Strengthen Rules, Transparency For Online Content Moderation, Hold Internet Companies Accountable.**” Consulted on Dec 01, 2023, Retrieved from: Brian Schatz US Senator: <https://bit.ly/47Z7Kc4>
- Sharaf, N. (2021, June 8). “**Systematic Digital Repression: Social Media Censoring of Palestinian Voices.**” Retrieved October 15, 2023, from Arab Center Washington DC: <https://bit.ly/3uCSoM2>
- Stray, J., Iyer, R., & Larrauri, H. P. (2023). “**The Algorithmic Management of Polarization and Violence on Social Media**”. *Draft for Knight First Amendment Institute Knight Columbia. Org.*
- Taha, Suhail. (2020). “**The Cyber Occupation of Palestine; Suppressing Digital Activism and Shrinking the Virtual Sphere**”. *Global Campus Arab World, Policy Briefs*, pp 939-1006.
- Wang, S. e. (2020). “**Linformer: Self-attention with linear complexity**”. *arXiv preprint*. pp 1-12.
- Wicker, R. (2020, Sep 8). *S. 4534 (116th): “Online Freedom and Viewpoint Diversity Act.”* Retrieved Nov 30, 2023, from Govtrack USA: <https://bit.ly/47Cg55L>
- Wilson, R. A., & Land, M. (2021). “**Hate Speech on Social Media: Content Moderation in Context**”. *Faculty Articles and Papers*, 52(3), pp 1029-1076.
- Zahzah, O. (2021, May 13). “**Digital Apartheid: Palestinians Being Silenced on Social Media**”. Retrieved Oct 16, 2023, from Aljazeera.net: <https://bit.ly/46EXu7B>