

**Social Media Defamation Across Borders: Legal and Jurisdictional Challenges****Muhammad Jamil¹, Rabia Jehanzeb², Khurshid Alam³**

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Abstract

The social media has introduced the communication revolution but has also increased the risks of introducing defamation at the international level. The content that is published in a certain country can so easily spread and tarnish the reputation of another country giving rise to complex legal and jurisdictional problems. These cross-border conflicts are difficult to deal with by the existing laws of defamation, which are founded on the territorial grounds. In this paper, social media defamation type, issue in determining jurisdiction and the responsibility of platform are examined. It also talks of options available on the possibility of protecting reputations without interfering with free speech in a new frontier in the digital world that knows no boundaries.

Keywords: Social Media, Defamation, Cross Border Jurisdiction, Online Reputation, Platform Liability, International Law, Digital Content, Freedom of Expression.

Introduction

The rapid expansion of the social media has changed the way people and organizations interact, express views, and share information with the rest of the world. Social media like Facebook, Twitter, Instagram, and Tik Tok can spread their content to millions of users at once, without having to consider geographical restrictions.¹ Even as these platforms enhance the freedom of speech, they are also opening new frontiers of defamation. False information posted on the Internet can damage the reputation of individuals or organizations within a very short amount of time,

usually well outside the jurisdiction of their release.² The traditional defamation laws are mostly territorial as they depend on the place of publication or the place of harm caused to establish the jurisdiction. Nonetheless, the borderless aspect of social media creates a dilemma to these principles because the content posted in one nation may result in reputational harm in various places at the same time.³ This, therefore, creates serious problems to courts and legal systems in terms of administering remedies and ensuring parties respond. Moreover, the responsibility of social media as such has become controversial. Although there are jurisdictions where safe harbor protection is extended to intermediaries, the rules have different application according to different countries, thus leading to disparities in their application and implementation.⁴ This becomes of special concern especially in cases of cross border conflict where the sites might be located in a single location, yet used globally. The combination of defamation and cross-border jurisdiction and platform liability highlight the necessity to revise the legal frameworks in order to preserve the freedom of expression and reputation protection in the digital era. The paper will discuss these issues, international solutions that address social media defamation, and discuss ways that can bring about a solution to the jurisdictional dilemma in international cases.⁵

Research Objectives

1. To analyze the nature and characteristics of defamation on social media platforms.
2. To examine the jurisdictional challenges in cross-border social media defamation cases.
3. To evaluate the liability of social media platforms under different legal frameworks.
4. To explore potential solutions and regulatory approaches for resolving cross border defamation disputes.

Research Methodology

This paper is a doctrinal and analytical one, and uses mostly secondary sources that include academic articles, case law, statutes, international treaties, and reports of the regulatory bodies. A comparative analysis is used to analyse the approach of various jurisdictions, including the United States, European Union and some Asian countries, towards social media defamation and platform liability. Relevant case studies are discussed to bring to light the practical difficulties in establishing jurisdictions and applying remedies in cross border disputes, in the course of which the scholarly opinion and legal commentaries are read to understand possible ways of balancing freedom of expression and protection of reputation in global social media platforms.

Understanding Social Media Defamation

Social media defamation is where false utterances are made in the online world that damages the reputation of an individual or organization. It is not like the old days of defamation where one has to take a long time to reach his target but nowadays, online information dissemination is fast and can reach to the rest of the world in near seconds, and this increases the damages.⁶ It includes libel written or permanent statements as well as in certain jurisdictions, slander spoken or temporary statements posted by video or audio clip.⁷ The anonymity and convenience with which the content is being spread on the platforms, including Facebook, Twitter, Instagram, and Tik Tok, only exacerbate the accountability issue because the author of the content can be difficult to track down.⁸ Cases of high profile like *Gutnick v. Dow Jones* and *Google v. Equustek*, explain how reputational damage in the online content can be cross-border and this raises complicated legal issues of liability, remedies, and jurisdiction.⁹ The online character of social media also brings issues towards preservation of evidence, quick removal of content and the obligation of the media to police and filter defamatory information, which indicates that good legal and technical support is necessary towards curbing online defamation.¹⁰

Jurisdictional Challenges in Cross Border Social Media

The international character of social media poses enormous problems to the issue of establishing jurisdiction in defamation cases. The conventional legal systems are territorial in nature and they are mainly based on the location where a book is published or where a person suffers a harm and then, determine which court has the jurisdiction.¹¹ However, Online content may be posted in a single country and may be viewed and inflict damage on many others, thus it becomes quite challenging to identify the law to be applied and the court having relevant jurisdiction. The courts have come up with varied strategies in order to resolve these issues. For instance, in *Gutnick v. The High Court of Australia, Dow Jones*, believed that defamation is done when the downloaded content is read and thus took jurisdiction despite the fact that the publisher was located abroad.¹² Similarly, in *Google v. The Supreme Court of Canada, Equustek*, realized that the reputational damage that could have been caused might continue unless cross border remedies are available.¹³ Besides legalities, there is also the practical challenge of enforcing judgment across borders. Various countries possess different defamation laws with the United States having the strongest laws that protect freedom of expression and strict liability laws in Europe and some areas of Asia.¹⁴ This inconsistency creates confusion to both platforms and users because what is legal in one

jurisdiction could be deemed illegal in another. The globalization of the social media therefore shows how important cross border collaboration is, issues of standardized legal practices and new regulatory strategies can be applied to effectively overcome cross border defamation.¹⁵

Platform Liability and Safe Harbor Rules

The social media are mediators in that they encompass and distribute content that is created by users. Their liability to defamatory content is very different depending on jurisdiction which makes cross border cases legally uncertain. Safety harbor laws are offered by numerous nations, protecting sites against liability of information posted by users, assuming that the sites take immediate actions to remove illegal information on receipt of the notification.¹⁶ Section 230 of the Communications Decency Act of the United States provides wide-ranging immunity to online platforms in the United States so that they are not held liable due to posting third party content on their websites, and to promote censoring offensive content.¹⁷ Conversely, the European Union has stricter requirements as stipulated through the E Commerce Directive where participants in the platform must be expeditious in removing illegal materials upon their notice to avoid liability, and so user rights and reputation protection are balanced.¹⁸

Despite these provisions, challenges remain. The protection of internet intermediary does not exonerate online platforms from their obligation when they refuse to take down content after being notified or knowingly make it easier for such defamatory comments to spread.¹⁹ The global nature of social media also adds to the difficulty of enforcement, with networks that are hosted in one jurisdiction and compliant with its laws but may be held liable in another regardless. These are reminders of the necessity of aligned legal standards and proactive mitigation strategies by platforms to reduce reputational harm whilst protecting freedom of speech.²⁰

International Approaches to Social Media Defamation

How countries handle social media defamation depends on national legal traditions, freedom of expression provisions and cultural norms. First Amendment: The United States Constitution offers strong protection of speech and Section 230 of the Communications Decency Act shields platforms from much liability, protecting them against what others say on them.²¹ In contrast, the European Union pays more attention to reputation and privacy rights. “(Internet)platforms have obligations, under the E Commerce Directive and General Data Protection Regulation (GDPR), to promptly remove clearly illegal/harmful content, while the “right to be forgotten” reinforces

individual control over their online information.²² In Asia and the Middle East, defamation is a grey area. Whether defamation is treated as a crime or civil wrong varies across jurisdictions with some regarding it as absolute liability whereas others at least require negligence.²³ This dichotomy complicates cross border enforcement, as what is legal content in one jurisdiction may be cause for litigation in another. In response to these problems, some countries promote voluntary self-regulation by platforms, cross border cooperation among regulators and instrumentalization of mechanisms for resolve disputes that are less jurisdiction bound than courts.²⁴ Globally, there is a tension between upholding reputation and safeguarding freedom of speech. The lack of consistency makes enforcement difficult, raises uncertainty for both platforms and users, and points to the necessity of harmonized international standards or treaties when regulating social media defamation in a globalized digital world.²⁵

Possible Solutions and Legal Innovations

The challenges are political, legal, and technological in difficult to regulate cross-border social media defamation. One option is harmonization of laws by means of international conventions or model statutes (a possibility I will return to in my conclusion below); such instruments can set uniform standards for liability, jurisdiction, and remedies on a transnational basis. The other alternative would be to include jurisdiction clauses in the user contracts and therefore allow the platform and the users to make decisions in advance on what law and what forum to use in resolving a dispute. There are also bright prospects in the technological developments. Implement regulations using AI-based surveillance. An AI based monitoring system used by platforms would allow them to be proactive in identifying and labeling potentially harmful content, preventing as much harm as possible before it is viral. More than that, the introduction of multi-jurisdictional takedown solutions can make sure that tainted content in the countries where it causes harm to the image can be removed within a short time so that local States can have the idea of adhering to the own legal system. Online mediation and/or arbitration offers alternative dispute resolution methodologies that would lead to faster, more flexible solutions to cross border defamation cases that would offload the court burdens and enhance access to justice by the affected parties. Ultimately, the legal harmonization and platform accountability need to be correctly balanced and innovative dispute resolution implemented to effectively fight social media defamation in an otherwise borderless online space.

Conclusion

The social media has transformed the world in terms of communication hence we can be exposed to the world instantly and interact in real time but it has increased the risks of cross border defamation. Libel can, and frequently almost immediately, destroy reputations worldwide, and to erode complicated legal and jurisdictional matters. The traditional territorial-based defamation laws do not usually provide the correct compensation in an online borderless world. The social media liability adds to the issue making it harder to enforce: The uncertainty on both sides of the debate is caused by this as such due to the variation in domestic laws and safe harbor regulations. To overcome these issues, it is necessary to use a complex strategy. There is a need to have legal harmonization, cross border collaboration and well-defined jurisdictional systems to facilitate uniform and equitable remedies. The use of technology solutions like AI content monitoring and multi-jurisdictional takedown system might decrease the risk to the reputation of a firm. Besides, ADR approaches provide quicker and competitive options to the traditional judicial system. Ultimately, although not that simple to reconcile the freedom of expression with reputation protection measures, by offering comparable rules all lawmakers, regulators and platforms can pull their resources together to establish an accountable, just interactive digital sphere.

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