

# History of combating disinformation and its misuse

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# What I will/will not cover

- WILL:
  - Freedom of speech and of the press through the ages
  - Relevant international law
  - Limits to freedom of expression
- WILL NOT:
  - Freedom of expression of members of parliaments, governments, and ambassadors

# Freedom of speech vs Freedom of the press

- Freedom of speech applies to individuals
  - Except in the US where it also applies to corporations
- Freedom of the press applies to publishers
  - Publishers have no obligation to publish what individuals send them
  - On the contrary, publishers may have to refuse to publish certain material
    - However, in the US, Internet sites are not liable for what they publish (CDA 230)

For a critique of CDA 230, see:

<https://botpopuli.net/trump-and-cda-section-230-the-end-of-an-internet-exception/>

# Most of the past

- For most of history, there was no freedom of speech or of the press
- On the contrary, much speech, and most print (after it was invented), were censored
  - Giordano Bruno was burned alive in 1600
  - The *Index Librorum Prohibitorum* existed from 1560 to 1966 (think of Galileo)

# When did it start

- With the Enlightenment (1700)
  - John Locke
  - Voltaire
  - Etc.
- French *Déclaration des Droits de l'Homme et du Citoyen de 1789*
- US First Amendment (1791)

# Limits

- French Declaration of 1789
  - Art. 4: *La liberté consiste à pouvoir faire tout ce qui ne nuit pas à autrui*
  - Art. 5: *La loi n'a le droit de défendre que les actions nuisibles à la société*
- **NOTE that there are two limits:**
  - Harm to individuals
  - Harm to the collectivity/ society (the state)

# Harm to individuals

- Defamation
- Insults
- Hate speech (restrictive in US)
- Copyright violation
- Violation of non-disclosure agreement
- Violation of right to privacy/right to be forgotten

# Harm to society

- Pornography (restrictive in many countries)
- Sedition (mostly restrictive in US)
- Hate speech (restrictive in US)
- Disclosure of state secrets
- Violation of right to privacy
- Violation of right to be forgotten
- Threats to public security
- Blasphemy (not all countries)
- Perjury
- Etc.

Recall that promotion of left-wing ideas was persecuted in the US during the late 1940s through the 1950s



# In international law (1/4)

- International Telegraph Convention (1865):

- Art. 19: Les Hautes Parties contractantes se réservent la faculté d'arrêter la transmission de toute dépêche privée qui paraîtrait dangereuse pour la sécurité de l'Etat, ou qui serait contraire aux lois du pays, à l'ordre public ou aux bonnes moeurs

Essentially identical text is in today's ITU Constitution

# In international law (2/4)

- International Telegraph Convention (1865):
  - Art. 20: Chaque Gouvernement se réserve aussi la faculté de suspendre le service de la télégraphie internationale pour un temps indéterminé, s'il le juge nécessaire

Essentially identical text is in today's ITU Constitution

# In international law (3/4)

- Universal Declaration of Human Rights (1948)
  - Art. 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
  - Art. 29.2: In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

# In international law (4/4)

- International Covenant on Civil and Political Rights (1966), Art. 19:
  - 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
  - 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
    - (a) For respect of the rights or reputations of others;
    - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

# Possible improvement

- ITU Constitution, Art. 34.2:
  - Member States also reserve the right to cut off, in accordance with their national law, any other private telecommunication which ~~is may appear~~ dangerous to the security of the State or contrary ~~to its laws~~, to public order ~~or to decency~~. However, any such cut off shall take place only if it is held to be necessary and proportionate by an independent and impartial judge.

# What is actually happening

- CDA 230 (1996) was actually originally intended to restrict speech on the Internet
- EU Code of Practice on Disinformation (2018, 2022)
- US State Department Global Engagement Center (2011)
- Discussions in UN on:
  - Cybersecurity
  - Information security
- “Outsourcing” censorship to Internet platforms