



The Current Legal Regulation and Optimization of Online Speech Infringing on Personality Rights

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Abstract

With the rapid progress of the internet and the increasingly vibrant online discourse, cyberspace has gradually evolved into the main arena for the public to express opinions and exchange thoughts. However, the free nature, anonymity, and rapid dissemination speed of online speech have also given rise to a series of issues concerning the infringement of personality rights, and such incidents are becoming increasingly severe. Ensuring that citizens' personality rights are not violated by online speech has become a significant legal challenge that society urgently needs to confront. This article provides an overview of online speech and personality rights, analyzing the current legal status of regulations concerning online speech that infringes upon personality rights. It also offers suggestions for optimizing these legal regulations to enhance public legal awareness and implement additional measures aimed at more effectively protecting citizens' personality rights. Ultimately, the goal is to promote the healthy and orderly development of cyberspace.

Keywords

Online speech; Personality rights; Legal regulation

1. Introduction

Given the rapid advancement of internet technology, online speech has gradually become a key aspect of people's daily lives. Internet platforms have given the public unprecedented freedom of speech, allowing every citizen to express their opinions and thoughts conveniently in the online world. However, freedom of speech has also brought many problems, especially the phenomenon of online speech infringing on personal rights is becoming increasingly prominent. Malicious defamation, personal attacks, privacy leaks, and other behaviors occur frequently, severely infringing on citizens' legal rights and social public interests. Therefore, how to effectively regulate online speech and ensure that citizens' personal rights are not violated has become an important legal challenge facing society today.

2. Overview of Online Speech and Personality Rights

In the digital information age, online speech, as a new form of information dissemination and public expression, has increasingly gained influence and penetration. Online speech refers to various forms of expression released and disseminated through internet platforms, including text, images, audio, video, and more. It has broken the temporal and spatial constraints of traditional media, granting the public a broader scope of freedom of expression and the capacity to engage in societal and public affairs. Nevertheless, this liberty is not unbounded. When it touches upon an individual's right to personality, it may provoke legal conflicts and disputes (Brian, L., 2024).

The right to personality, being a pivotal cornerstone within the contemporary framework of civil law systems, aims to protect an individual's dignity and freedom of development. It encompasses various aspects such as the right to life, the right to health, the right to a name, the right to reputation, the right to image, the right to privacy, and more.

It forms the basis for an individual's social existence and legal status. In the online environment, the protection of the right to personality is particularly important, as the virtuality and anonymity of cyberspace may exacerbate the occurrence and spread of infringement, causing irreparable harm to the victims.

3. The Current Legal Regulation Status of Online Speech Infringing on Personality Rights

3.1 Legislative level

At the legislative level, our country has established a relatively comprehensive legal system to address the issue of online speech infringing on personal rights. With the enactment and enforcement of the Civil Code, the safeguarding of individual rights has garnered unprecedented attention and emphasis with rights such as reputation and privacy being explicitly listed and given specific protective measures. In addition, the introduction of specialized laws such as the Cybersecurity Law and the Personal Information Protection Law has further refined behavioral norms in cyberspace, providing strong legal support for combating online infringement. However, at present, Legislation continues to confront challenges stemming from the swift evolution of network technology. For example, with the widespread application of technologies such as artificial intelligence and big data, the speed of dissemination, impact range, and anonymity of online speech have greatly increased, making traditional legislative approaches seem inadequate when dealing with new types of online infringement (Jiaxin L., 2024).

Therefore, while legislative bodies continue to refine and enhance existing laws and regulations, it is equally important for them to maintain a keen eye on the evolving trends in network technology respond promptly to societal concerns, accurately define new types of online infringement, and establish corresponding punitive measures. At the same time, legislation should prioritize striking a balance between safeguarding internet freedom of expression and protecting individual rights. It is essential to ensure citizens' freedom of expression online while preventing the arbitrary infringement of others' personal rights through online speech.

3.2 Law enforcement and judicial practice

In the realm of law enforcement and justice administration, our pertinent departments have demonstrated a proactive stance in addressing the issue of online discourse that infringes upon individual rights. As the online environment becomes increasingly intricate, law enforcement agencies confront ever-escalating challenges. They not only need to track and identify the infringers hidden behind the virtual network but also, while ensuring citizens' freedom of online speech, precisely crack down on actions that infringe on personal rights. In recent years, using advanced technological means and strict legal procedures, law enforcement agencies have successfully investigated and dealt with a number of online infringement cases, effectively maintaining the order of cyberspace and the legal rights of citizens. At the same time, judicial organs have demonstrated a high degree of professionalism and impartiality in hearing-related cases. They have imposed strict penalties on actions that infringe on personal rights in accordance with laws and regulations, providing timely legal remedies for victims. However, there are still some difficulties in the practice of law enforcement and justice. The anonymity and cross-border nature of the internet make tracking and evidence collection extremely difficult, while the immediacy and breadth of online speech increase the difficulty of law enforcement. In addition, how to effectively crack down on actions that infringe on personal rights while protecting citizens' freedom of speech is also an issue that law enforcement and judicial authorities need to deeply consider.

3.3 Industry self-regulation and public awareness

In terms of industry self-regulation, the issue of online speech infringing on personal rights has attracted high attention from the internet industry. Major online platforms and companies have formulated internal regulations, explicitly prohibiting users from posting speech that infringes on others' personal rights. By establishing reporting mechanisms, strengthening content review, and adopting technical measures, a self-discipline and management system is being formed within the industry. The establishment of self-regulatory mechanisms not only helps maintain a clear and clean cyberspace but also builds a good social image for enterprises, promoting the healthy development of the industry. At the same time, with the popularization of Internet education and the deepening of legal publicity, an increasing number of netizens are beginning to realize that the Internet is not beyond the law, and freedom of speech does not equate to the right to infringe on others' rights at will. The public is gradually forming a conscious awareness of maintaining internet order and respecting others' personal rights, and the formation of this awareness is of profound significance in curbing online infringement. However, the cultivation of industry self-regulation and public awareness

still needs to be continuously strengthened (Michael B., 2018). On the one hand, the industry ought to establish more rigorous regulatory frameworks to guarantee the effective enforcement of self-regulatory standards; on the other hand, the government and all sectors of society must continue to intensify legal awareness campaigns, thereby enhancing public cognizance and vigilance towards online infringement.

4. Optimization Suggestions for Legal Regulation of Network Speech Infringing Personal Rights

4.1 Improve the legal and regulatory system for online speech

With the swift advancements in information technology and the ever-expanding realm of cyberspace, online discourse has emerged as a pivotal avenue for individuals to articulate their viewpoints and engage in intellectual exchanges. However, the anonymity, immediacy, and breadth of online speech have also brought about numerous legal issues, especially the frequent occurrence of infringements on personal rights. Therefore, it is particularly urgent to build a comprehensive, scientific, and effectively operational legal system for online speech. Commencing from the legislative sphere, a thorough examination and evaluation of current laws and regulations pertaining to online discourse ought to be undertaken. For specific acts of online speech that infringe on personal rights, such as defamation, insult, and disclosure of personal privacy, their legal nature, constituent elements, and legal responsibilities should be clarified. Considering the rapid development of network technology and the diversification of forms of online speech, legislation should be forward-looking and flexible, capable of adapting to changes in the future network environment. At the same time, to improve the legal system for Internet speech, it is necessary to focus on the coordination and coherence between laws. Internet speech regulation involves multiple fields and departments, such as network security, information dissemination, and personal privacy protection. Therefore, during the legislative process, the interrelation and complementarity of different laws should be fully considered to avoid legal loopholes and regulatory gaps. Moreover, cooperation and exchanges with the international community should be strengthened, drawing on the advanced experiences of other countries and regions, to jointly build a legal framework for global internet speech governance. Additionally, even the most rigorous and comprehensive laws and regulations will become mere paper if they are not effectively enforced and implemented. Therefore, it is essential to build a sound regulatory and law enforcement system for internet speech, clarify its responsibilities and authorities, enhance the construction and training of law enforcement teams, and further improve the legal relief mechanisms to provide victims with convenient and efficient legal aid channels, ensuring their legal rights are fully and efficiently safeguarded (Nick C., 2024). Ultimately, emphasis should be placed on bolstering the promotion and education of the Internet's rule of law, disseminating Internet legal knowledge, and enhancing public consciousness regarding the legal obligations of Internet speech and self-regulation. Only when the public generally possesses a concept of the internet rule of law and consciously complies with the legal norms of internet speech can cyberspace truly become a healthy, orderly, and positive public domain.

4.2 Increase the legal penalties for online speech infringement

In the internet era, freedom of speech has been expanded to unprecedented levels, but at the same time, online speech infringement has become rampant, severely infringing upon individuals' personal rights. To effectively curb this behavior and protect citizens' legal rights, it is crucial to increase the legal penalties for online speech infringement. Currently, the anonymity, openness, and immediacy of cyberspace allow infringing speech to spread rapidly and have a wide impact, causing immeasurable mental harm and social effects to the victims. However, due to the relatively light penalties for online speech infringement under current laws, some infringers often manage to evade legal sanctions or trample on others' personal rights at a minimal cost. This situation urgently needs to change. Strengthening legal penalties means that online speech infringement should be more strictly defined and classified (Paul B., 2024). Different types of infringement, such as defamation, insult, and malicious rumor-mongering, should be assigned corresponding legal responsibilities and penalties based on their nature, circumstances, and consequences. For particularly egregious and impactful acts of infringement, legal penalties should be applied more heavily in accordance with the law to serve as a deterrent. Additionally, the cost of infringement should be increased by enhancing economic and moral damages as civil liabilities, and by intensifying administrative penalties and criminal sanctions. This can make the consequences of illegal actions tangibly felt by the infringers, provide more comprehensive legal remedies for victims, and create a strong deterrent against online speech infringement throughout society. Furthermore, increasing the legal penalties must be combined with strengthening law enforcement and judicial practice. Law

enforcement agencies should intensify efforts to investigate and punish online speech infringement, using advanced technological means to trace and identify the sources, ensuring that each infringement is dealt with promptly and effectively. When adjudicating related cases, judicial authorities should adjudicate strictly in accordance with the law, ensuring the accuracy and impartiality of the application of the law. At the same time, legal education and moral guidance for infringers should be strengthened, prompting them to recognize the wrongfulness of their actions and take on the corresponding responsibilities. Lastly, while protecting personal rights, the freedom of speech of citizens should also be fully respected. Therefore, when improving relevant laws and regulations, a balance should be sought between freedom of speech and the protection of personal rights, ensuring that both are developed in a coordinated manner within the framework of the rule of law.

4.3 Improve the burden of proof system for online speech infringement

In the legal regulation of infringement of personality rights in online speech, the improvement of the burden of proof system is a key link to ensure effective protection of rights. Due to the particularity and complexity of the online environment, the traditional method of allocating the burden of proof often fails to meet the needs of online speech infringement cases. Therefore, it is necessary to specifically optimize and improve the burden of proof systems for online speech infringement cases. Firstly, the principles of allocating the burden of proof in online speech infringement cases should be clarified. In such cases, victims often face difficulties in providing evidence, as the anonymity and transience of online speech make evidence collection exceptionally challenging. Therefore, the principle of shifting the burden of proof can be considered, wherein the defendant is required to shoulder a portion of the proof's burden to establish that their speech did not amount to an infringement. This approach offers a more equitable distribution of the burden of proof between the parties and aids in safeguarding the legitimate rights and interests of the victims. In light of the vulnerability of network data to tampering and deletion, ensuring the integrity and authenticity of evidence is crucial. Therefore, it is important to establish specialized network evidence preservation agencies or use advanced technologies like blockchain for evidence fixation to ensure the validity of evidence (Sun Z., 2023). At the same time, the process for victims to apply for evidence preservation should be simplified to reduce the difficulty of providing evidence. Moreover, the role and responsibility of network platforms in the evidence production system should be strengthened. As significant channels for the dissemination of online speech, network platforms have an inescapable responsibility to prevent and combat online speech infringement. Thus, it should be explicitly stipulated that network platforms should assist victims in collecting evidence, preserving relevant records after receiving infringement complaints, and providing evidence to judicial authorities when necessary. At the same time, network platforms that fail to fulfill their corresponding obligations to assist in evidence production should be held legally accountable. Finally, it is also necessary to strengthen the guidance and supervision of judicial authorities in the burden of proof in cases of online speech infringement. When dealing with such cases, judicial authorities should fully utilize their professional advantages to guide the parties in the burden of proof, ensuring that they fully exercise their rights to provide evidence. On this basis, judicial authorities should also strengthen supervision over the process of providing evidence to prevent one party from using the burden of proof system to evade legal responsibility.

4.4 Strengthening international cooperation and legal coordination against online speech infringement

In the context of globalization, the issue of online speech infringing on personality rights has transcended national borders, becoming a challenge faced by countries worldwide. Therefore, strengthening international cooperation and legal coordination to jointly combat online speech infringement is particularly urgent and important. Specifically, the borderless nature of the internet allows infringing speech to spread rapidly across the globe, causing severe harm to the victims' personal rights. Countries should enhance information sharing and collaboration mechanisms, jointly track, locate, and crack down on the sources of infringement, establish international network speech regulation and cooperation organizations, and jointly formulate and enforce relevant rules to form a combined effort against online speech infringement. At the same time, due to differences in legal systems and cultural traditions among countries, there may be disagreements on the identification and handling of online speech infringement. Therefore, countries need to clarify common standards and procedures for handling online speech infringement through bilateral or multilateral agreements to avoid legal conflicts and jurisdictional disputes. International organizations and regional cooperation mechanisms can also play a significant role in promoting coordination and unification in the legal regulation of online speech infringement among countries. Furthermore, with the continuous development of internet technology, the methods and means of spreading online speech are constantly being updated. Countries should strengthen

technological exchanges and cooperation, jointly develop and apply advanced internet monitoring and tracking technologies to improve the ability to detect and combat online speech infringement. At the same time, it is also necessary to strengthen regulatory cooperation with internet service providers to ensure their responsibility in preventing and combating online speech infringement (Waheeb A., 2021). Finally, strengthening transnational cooperation and legal coordination also needs to focus on protecting personal privacy and data security. In the process of combating online speech infringement, countries should strictly comply with international and domestic laws regarding personal privacy and data protection to ensure that legal rights are not infringed upon. Countries should also strengthen cooperation in the fields of cybersecurity and data protection to jointly address threats such as cybercrime and hacker attacks.

5. Conclusion

In summary, the infringement of personality rights through online speech has become a global issue that requires a collective effort from all countries to resolve. By improving laws and regulations, increasing the severity of legal penalties, perfecting the burden of proof system, and strengthening international cooperation and legal coordination, the protection of citizens' personality rights can be more effectively safeguarded. This will help maintain order and stability in cyberspace, thereby contributing to the creation of a healthy, orderly, and positive online environment, and promoting social harmony and development.

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