

Online Social Networking and the right “NOT” to communicate

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With the advances of digital and online media, a new set of concerns have emerged not only by advocates, watchdogs, and observers but also by vigilant governments in regards to the distribution, dissemination, and/or sharing individual information online. Electronic media have been long seen as holding unique qualities to decentralize and shift the control to users empowering individuals with the impartiality and universality of the right to communicate as stated in Article (19) of the Universal Declaration of Human Rights (1948).

Thanks to modern technology, the right to privacy is often invaded in certain public places for security purposes, for example, the use of video surveillance in banks, stores, etc. The claim against the use of these monitoring devices is that they violate an individual’s right to communicate freely and in privacy as they wish. While it is recognized that everyone has, according to the international declarations, a right to communicate and to privacy, at the same time society has to ensure security for the public at large. So, how can this problem be solved? Following the September 11th, 2001 attacks, and under the state of anti/counter terrorism that preoccupies most of the national and international discourses and spheres today, global communicative patterns have shifted toward highlighting “anti/counter-terrorism” actions, which can be seen as an ongoing elimination of the emphasis of the human right to communicate as a core civil liberty, as stated in Article (19) of the *Universal Declaration of Human Rights* along with the *International Covenant on Civil and Political Rights* (1966), and other international documents.

Considering the Right to Communicate as absolute and universal raises another important question: if everyone has the right to communicate, does this include the right not to communicate, or the right to privacy? Jean d’Arcy, the father of the right to communicate, first raised this question in his discussion of Article (19) of *Universal Declaration of Human Rights* and given the “horizontal” flow of information, he questioned the notion of whether “the right to communicate includes the right not to communicate . . . [as] better suited to extricating the discussions on information flow from the deadlock in which they have remained for thirty years,” (1982: 7) as outlined in his study included in the MacBride Commission Report. René Cassin, head of the French delegate in the United Nations, says that by combining the statements included in both Articles (19) and (20) that proclaim the right to “seek, receive and impart information and ideas” and the right to a “peaceful assembly and association,” is the basis of the communication interaction (as cited in Harms & Richstad, 1977: 97). They add that by looking to the second section of Article (20), which states that “no one may be compelled to belong to an association”, another question is raised: Is there a Right Not to Communicate, and is this right languaged or not, or acceptable or not?. This is an important dimension in realizing how an absolute Right to Communicate can influence the right to privacy, especially in terms of communication rights of cultural minorities. Harms presents, in this context, the Indian philosopher Ghandi’s perspective—that some cultures have the right to produce their own values

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and information from their own culture, and therefore they could proclaim their right “not to communicate” (1982: 5).

In this proposal, and using a recent investigation by the Canadian government into the privacy policies of Facebook, I will provide yet one of the examples revealing not only the ethical dilemma, but the policy challenges in using social networking sites and maintain individual privacy. In particular, I will tackle the importance of underscoring the right “not” to communicate by analyzing the difficulty to maintain individual privacy as stated in Article (12) of the Universal Declaration of Human Rights “No one shall be subjected to arbitrary interference with his privacy . . . or correspondence”. Evidently, and although the 2000 Canadian Personal Information Protection and Electronic Documents Act (PIPEDA) compels every organization operating in Canada to adhere to the Canadian policy to protect the personal privacy and personal information, a recent case has been made to underline the ambiguity to apply such policies in the case of Facebook. My proposed paper will investigate the concerns expressed by Jennifer Stoddart, Canada Privacy Commissioner in may 2008 regarding Facebook’s violation of PIPEDA. Particularly its violation of the users’ privacy in four aspects: sharing users’ information to an unknown third party, deactivation of actions, invitation to join the site, and memorialized accounts.