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Reviewing the Impact of Telecommunications Sector on the Right of Freedom of Expression

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Abstract:

Telecommunications is changing the information sector forever. Pointedly, it has an incredible power to make people ingest information and disseminate same more effectively and speedily. The mobile phone itself, and the telecommunications applications in the forms of Twitter, Facebook, You Tube, Telegram, Instagram etc. enable phone-users to receive, or listen to, or watch, or send news and factual information. Today, users can, at will, access and share, or edit their own or other's information, text comments, listen to music, makes some recordings, download some document, watch footballgame, create personal playlists, send some pictures, or intermingle with commercial, using their smartphones. This ability that makes a user to be more in control of the news around him, and the fact that telecommunications services are more convergent, more convenient and fast had made telecommunications a better platform of freedom expression than the traditional offline media. Off course, the print media, the radio and the television had remained centrally important in the world of information, but nowadays, the right to freedom of expression has always rested more upon the platform of telecommunications than anything. Newspapers, radio and television might have been the champions of free speech from the eighteenth century up to the end of the twentieth century, but by the twenty-first century, communication on a mass scale and wider coverage was monopolized by telecommunication services. This article reconnoiters how telecommunications sector have been critical in achieving the constitutional right of freedom of expression.

Keywords: Freedom of expression, telecommunications, human rights, fundamental rights

1. Introduction

It is of great significance to understand that freedom of expression is not confined to the conventional verbal speech or printing and publication of information. Definitely it is an extraordinary space of exercising freedom of expression because telecommunications are more prompt, open and accessible to (almost) everyone. In fact, a benevolent and purposive interpretation will show that the orthodox ways of exercising the right (to freedom of expression) are coextensive with the unique modes of communicating messages through the medium of telecommunications technologies and applications. Thus, ideograms, pictographs, typographs and various genres of emoticons such as Emoji and Smiley all forms part of ways of freedom of expression. So is 'Surfing', 'Networking', 'Browsing', 'Sharing', 'Tweeting', 'Posting', 'Updating', 'Facebooking', 'Chatting', 'Googling' etc. In the high water-mark American case of *Tinker v. Des Moines Independent Community School District*, the U. S. Supreme Court had decisively noted that, in matters of freedom of expression, where symbolic communication is being treated alternative to speech. Just like *Tanure Fields, et al v. Twitter, Inc.* the terse provide the feedback that Twitter account is basically made for review and edit purpose and it is a platform to express emotions freely, even if the account is in use for ideological propaganda. This Field's lawsuit was filed after two American governments contractors were shot and killed while working at a law enforcement training centre in Aman, Jordan. The shooter was a Jordanian police officer who had been studying at the centre, and who, according to an intelligence report, belong to a clandestine ISIS terror cell. Twitter was sued for allowing ISIS members to sign up for Twitter accounts wherein they propagate their ideology. The claim failed in court because, inter alia, Twitter communication is an aspect of free speech protected by the constitutional provision.

Telecommunications landscape is full of communications infrastructure, products and services that assure and to enhance the right of expressing freely. Moreover, this sector comprises of many governing bodies like 3GPP, ITU-R, ITU-D, ITU-T, W3C, IETF, IEEE, ICANN, and ISO to freely express thoughts. The sector had therefore become a vital dais for the dissemination of this aspect of human rights. This unique role of telecommunications had found the recognition of the Supreme Court of Zimbabwe in the case of *Retrofit (Pvt) Ltd v. Posts and Telecommunications Corporation* (Attorney-General intervening) where the court struck down the statutory monopoly enjoyed by the PTC over telecommunications

service, holding that such monopoly is obstacle in the path of gratification to express freely for every person living in this country.

Expressing thoughts freely is a primary right of citizens as per the Court. This is the cause why country's Postal and Telecommunication Service Act does not allow any kind of obstacle in case of receiving any facts or information. This right has been tightened more firmly as government affairs; facts aim to educate society can be getting affected by this. In the case of Capital Radio (Private) Limited v. Minister of Information, Posts and Telecommunications, the Supreme Court of Zimbabwe made a rule that every applicant is being liberated to endow with broadcasting services. This freedom of right comes under section 20(1) of the Constitution of Zimbabwe.

2. The principles of Freedom of Expression

The right to freedom of expression not only ensures the right to speak but also includes the right to hear speech. It covers the all kinds of rights through which communication can be made. Telecommunications happens to provide the means to communicate both structurally and by substructure. In the celebrated case of Knight First Amendment Institute of Columbia and 7 Others v. Donald J. Trump, President of the United States of America and 2 Others, Federal Appellant Court ruled that Twitter account of the U.S President, being an 'official digital forum', is a tool of exercising freedom of expression. Therefore, President Trump can no longer shot down his Twitter critics with one click of the 'block', because such is violation of the First Amendment. The right to freedom of expression is sine qua non of a basic human right. Regardless of frontiers, everyone has freedom to receive and circulate information, ideas without interfere of public authority. Freedom means no presence of limitations, fetters or fear of punishments. It also includes press-freedom, freedom in artistic creativity, academic freedom including research. Drawing inference from Schenk v. United States, the freedom of expression is basically a matrix for posing conditions regarding every other form of freedom.

Constitutional Rights Project and others v Nigeria, the African Commission on Human and Peoples' Rights highlighted the significance of the right regarding "freedom of expression is a basic human right, vital to an individual's personal development and political consciousness, and participation in the conduct of the public affairs of his country." Similarly, in Ghazi Suleiman v Sudan the same Commission opined that the right was "a cornerstone of democracy and ... a way of guaranteeing respect for all citizens' rights and freedoms."

Regarding importance of the freedom of expression, the Constitutional Court of Zimbabwe in Madanhire and Another v. Attorney-General opines that:

Without any doubt the freedom of expression is associated with the rights to acquire and communicate information. It provides a core value for any democratic society. It should be predominantly recognized and ingrained practically in every international and regional human rights instrument.

The right applies to everyone, and this means that people are generally free to talk about, or write about, or otherwise express their ideas and opinions without any censorship or interference from the state, subject only to the narrow exceptions set out by the law. The right is enjoyed by not only human citizens, but also other juridical personalities that include corporations, registered organisations, associations and groups.

The decision in the case of Derbyshire County Council v Times Newspapers had clearly established that the right of expression is a fundamental Common Law right, fully buoyed by (Article 10 of) the European Convention on Human Rights and the British Human Rights Act, 1998. The United Nations Universal Declaration of Human Rights, the African Charter on Human and People's Rights and various other regional instruments and conventions also guaranteed this right. Article 19 of the Universal Declaration on Human Rights discusses as follows:

Everyone has the right to freedom of view and expression; this right includes freedom to hold view without meddling and to look for, obtain and communicate information, and thoughts via any media and regardless of frontiers.

Similarly, Article 19 of the International Covenant on Civil and Political Rights provides for the right to freedom of expression as follows.

- Without meddling, everyone shall have the authority to express thoughts.
- Everyone has the right to freedom of view and expression; this right includes freedom to hold view without meddling and to look for, obtain and communicate information, and thoughts via any media and regardless of frontiers in written or oral forms.

By the provision of the constitution fundamental right is being guaranteed by Nigeria, and in numerous other democratic countries. Handyside v The United Kingdom the European Court of Human Rights has resolutely narrated his freedom of expression'. Auxiliary to this, in R. Raja Gopal v. State of Tamil Nadu, the court, while citing New York Times v. United States, pragmatic that "any system of prior restraints of (freedom of) expression comes to this court bearing a heavy presumption against its constitutional validity".

The right to freedom of expression is ensured and protected in Section 39 of the 1999

Ever since the cell-phones becomes household, telecommunications become part of the propagation of the right. The right is better championed by telecommunications because it is a global infrastructure that operates beyond state borders.

3. Meaning of Telecommunications

The expression Telecommunications was adapted from the Greek prefix, tele, meaning 'far off', and the Latin word communicare, meaning 'to share'. The two words were combined by a French engineer, Edovard Estounie, to coin the locution telecommunication in 1904. The expression also has a composite definition. Science and technology of communication at a distance, especially the electronic transmission of signals is transmitting signals and helps to find the meaning of communicating messages. Along with messages signs, signals, messages, words, writings, images and sounds or information are also being translated. Newton's Telecom Dictionary defined it as:

The art and science of 'communicating' over a distance by telephone, telegraph and radio. The transmission, reception and switching of signals, such as electrical or optical, by wire, fibre, or electromagnetic (i.e. through-the-air) means. One cannot speak of telecommunications devoid of phone, computer and the internet. In fact, telecommunications consist of phone-based applications, and web-based platforms that enables communication interaction and exchange of user generated content. These are the medium of modern communication of information. And from time immemorial, information and communication have always been together as they have at all times formed the basis of human existence. Accordingly, communication has the object of passing an information. In the light of this, telecommunications, consisting of electromagnetic transmission of wireless, telephone, telegraph, radio, television or satellite signals, is the only type of communication available other than face-to-face communication.

4. News is Contingent upon Telecommunications

The world is presently in the digital information communication era, and, dissemination of information in this epoch is contingent upon a mobile phone, especially the smartphone. Apparently, there is a shift in the information service system from the traditional ways (personal contacts, newspapers, magazines, libraries, radio, television, mail couriers etc.) to the telecommunication-based devices. This essentially is because of the devices' characteristics of information propagation speed and access facilitation. The increasing sophistication of smartphones makes telecommunications to change the settings of today's news. The devices had radically changed the ways news is 'consumed' by enabling a user to select the category of news needed from the news feeds he determine how to get it, where to get it, and when to get it. A user accesses not only information or data, he equally sends and receive email messages, and could work on document or participate in multimedia conferences. Again, the devices are capable of notonly logging on to the news, but also accomplished of storing, retrieving, processing, interacting and, utilizing it.

There is also socialization aspect of the telecommunication. People socialized and express their views more on the social networks that include Facebook, Twitter, Instagram, WhatsApp, WeChat, Telegram, QZone, Tumblr etc. As regards the mobile phones, people make more frequent phone-calls than contact-talk (face-to-face) with each other. This made the percentage of mobile phone use higher than that of television-viewing, or radio-listening audience. Again, the ratio of those accessing news portals and blogs is greater than those reading the print media and the mails. All these makes telecommunications devices as alternative mode to the conventional ways of freedom of expression.

In the US case of *Reno v. American Civil Liberties Union (ACLU)*, which is a case that involved a wide variety of online users, content providers, and human right groups, the Supreme Court avowed that telecommunications communication had fallen under protected speech. Extension of the First Amendment (of the US constitution) to written, illustration and verbal expression available on the internet or social media have been possible.

For publishing news, Telecommunications and Internet access sector have become very vital. In the case of *X Ltd v. Morgan-Grampian (Publishers) Ltd*, William Goodwin was a trainee journalist with 'The Engineer' magazine, published by Morgan Grampian. Financial status of the computer software company, tetra has been received by him. A confidential corporate plan has been appeared by telephone from a source. An unsuccessful appeal has been made to the Court of Appeal and House of Lords. A fine of £5,000 has been charged for contempt. A violation of Article 10 of the Convention has been done by the European Court of Human Rights. The significant issue in the case is the fact that the European court decision is predicated upon the fact that telecommunications is a place where information crosses disinformation. The telephone call that serve as the source of the petitioner's information is a 'protected' material within the context of freedom of expression. By the same token, inCase of *Goodwin v. The United Kingdom* the Court ruled that there had been a breach of Article 10, and acknowledged that the source of Goodwin's information is a protected source. Similar fact arose in *Mersey Care NHS Trust v. Ackroyd* where the defendant journalist had published confidential material from the claimant's secure hospital. The information at stake is clinical notes obtained from the computer system. Also, in *R v. Neville* the issue before the court involved print-out which was tendered by the prosecution as the record of GSM, which was networked with a computer through which the uses of the GSMwererecorded in the computer. The second computer was also made used for billing through which printout was made. The court held that the printout was admissible, and oral evidence is allowed to be given on the effect that the computers were working properly.

5. Telecommunication as an Element in Information and Knowledge Dissemination

Section 36 of the 1979 Nigerian Constitution and section 39 of the 1999 Constitution, identify the main logic of any academic institution is to diffusion of ideas as per the Supreme Court, in *Archbishop Okogie v. Attorney-. General Lagos State*. This clearly established the fact that tutoring, instructing, training, drilling and coachingflows naturally from the right to send or disseminate expression. Justice William Brenna offered the most extensive treatment of the principle in a library book censorship case of *Board of Education, Island Trees Union Free School District v. Pico*. Another case is that of *Martin v. City of Struthers* which involved a Jehovah Witness woman who distributes religious materials door-to-door, and the court upholds that the act of distributing literature is within her right to disseminate ideas.

In today's high-tech world, telecommunications have made numerous positive impacts on education and sphere of ideas and knowledge. Video presentation platforms such as Skype, Google Hangouts or Web Video conferencing have allowed instructions to be delivered across great distances. Again, Instagram and YouTube enhances creativity, while Blogger improves writing skills. It is also a fact that telecommunications make Distance Learning possible, and accordingly, many universities are now offering online courses to the public. Again, telecommunicationsenhance and change the way knowledge and ideas are conveyed. On one hand, while expensive books and new researches are accessed and even downloaded, no topic is impossible to 'google' on smartphone. On the other hand, projects and assignments are more often

submitted through emails, and WhatsApp groups are created for discussion of tutorials and seminars, while new information for homework are shared with the help of social media.

6. Telecommunications as Venue for Expression of Political Views

Telecommunications is a modern public space for the promotion of liberal speech. There is abundance of apps, applications, networks and tools directly connected to it that that promotes collaboration, discussion, connection and education beyond the territorial borders of nation states. Generally, people use telecommunication networks and applications to vocalize their opinions and get involved with issues of civic importance. This is what makes the social media the venue for political and ideological debates. In the case of *City of Ontario v. Quon*, the Supreme Court, while determining whether the right to privacy applies to electronic communications in a government workplace, expressed the view that the cell phone and text message communications are so pervasive that some persons may consider them essential means, or necessary instruments for self-expression and self-identification. In fact, people feel safe in their colon of online anonymity to criticize governance or engage in ideological discussion. This is partly due to the fact that the telecommunications infrastructure is full of security encryption. Most of the notable phone manufacturers, such as the Apple, Samsung, Huawei, LG etc. have software to secure customer data. The Apple Company specifically altered its software in 2014 to ensure that it would not be able to unlock customer phones and decrypt any of the most important data on them. This explained the FBI legal battle in 2015 that set to compel Apple to help in the decryption of the phone of Syed Rizwan Farooq, one of the suspect in San Bernardino shooting. The FBI applied to the Central District Court of California for an order to the Apple to help them hack the phone of the suspect, who was shot dead by the Police shortly after the shooting incident. The suspect created a password to lock his phone, and the security features built into the device was such that, if there is a failed guess on it, the phone will automatically lock-out.

Worldwide, social media, which is an aspect of telecommunications, had lend a hand in the birth of massive social movements. As an effective way of communication, it raises awareness that led to some civil resistance. For instance, in 2013, a campaign was popularized to fight racial profiling, police brutality, and racial inequality in the United States criminal justice system. This is the case of 'Black Live Matter' hashtag which is an international activist movement, originating in the African-American community, that campaigns against violence and systemic racism towards black people in America. The phrase 'Black Lives Matter' was born in a Facebook post which was intended as an affirmation for a community distraught over the acquittal of an American, George Zimmerman, in the shooting death of a seventeen-year old African-American, Trayvon Martin, in Sanford, Florida. Telecommunications also accounted to initiation of sustained social activism. This is evident on the fact that it makes "Me Too" Movement, which was aimed at raising awareness around sexual harassment and assault, to go viral. The same thing with the Arab spring revolution which is a wave of demonstrations, protests (both non-violent and violent) and riots in the Arab world that began on 18 December 2010, and which forced the rulers in Tunisia, Egypt (twice), Libya and Yemen out of power.

Globally, political organisations and parties are using telecommunications-linked social media to gets in touch with their ideological followers. For example, the recent Brexit Debate was taken to the digital sphere by both the Conservative Party and the Labour Party. Both parties have and use their Twitter Accounts to press their respective points to their political faithful. Again, in the US, the American politics is more heard on Twitter than any media outlet. This is for the reason that there is frequent use of the Twitter by the US president, Donald Trump, when commenting about issues of climate change, trade, war, celebrities, politicians and daily news.

It is also a fact that the telecom-linked social media had changed the way in which political communication takes place in Nigeria. The joke-sharing and fact-finding posts on the social media by the Nigerian citizens is getting elected officials to pay attention to issues. Several important projects got government attention through the public outcry and publicity through the digital communication networks.

7. Legal and Extra-Legal Boundaries of the Right

The exercise of the freedom of expression carries with it duties and responsibilities; the right was made subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

There is growing recognition that even in the domain of telecommunication, the right to freedom of expression, like most other rights, is not absolute. On one hand, a number of countries come up with formalities, conditions, restrictions or penalties that negate the exercise of the freedom. On the other hand, there are legally recognised restrictions and exceptions to this right on the basis of either national interest (for instance to prohibit hoax bomb claims); or for national integration and the prohibition of hate speech; or for the prevention of disorder or crime (for instance to prohibit incitement to violence); or for the protection of the reputation or rights of others (as reflected in the defamation law; or for the protection of health or morals of the public (for instance laws against pornography).

Generally, in several countries, telecommunications laws provide for broad restrictive powers in case of an emergency. These laws are used by governments to justify interruption of telecommunications interactions that hitherto were in exercise of freedom of expression. In some countries the laws are applied to either block various instant messaging and Voice over Internet Protocol (VoIP) services or make such services illegal. In January 2016, Skype, Viber, Tango, WhatsApp, and Facebook Messenger are among the applications whose VoIP calls have been blocked by telecom operators on 3G and 4G connections in Morocco. On the basis of providing VoIP services required licenses are lacking as per the Telecommunications Regulatory National Agency (ANRT). This restriction has been followed by the Government Decree

who prohibits the use of VoIP services in November 2016. More federal laws have been issued by the United Arab Emirates President in 2016 regarding freedom of expression. Virtual private networks (VPN) have been made restricted. Fine of Dh500,000 and Dh2,000,000 (approximately \$136,000) has been charged and in China, VoIP services have been banned unless it is provided by state telecoms.

A three-month blanket ban on instant messaging and VoIP services have been started in Sindh Province, Pakistan in October 2013. In 2012, unregistered users over VoIP have been identified by the government of India from the states of Jammu and Kashmir. In July 2016, access to WhatsApp was restricted and information relating to criminal investigations have been made for several hours.

Some restrictions on the freedom of expression in the province of telecommunications are, however, justified. Hate speech that inflame listeners, or because imminent lawless action is a good ground for restriction of the right. So is a racist statement, or one that may cause breach of public order, or peace. In the case of *Google v. Equustek Solutions* the Supreme Court of Canada ordered Google to block a pirate site, not just in Canada, but around the world. The case involves a plaintiff who found that the defendant, a former distributor of the plaintiff was making a counterfeit copy of its industrial network interface hardware. During the course of the litigation, the defendant stopped responding to court orders, closed up their Canadian location, and continued to sell the counterfeit goods through a variety of internet portals in a twist on the old 'whack-a-mole' strategy in which faithful readers of their blog will be familiar. The court had, in granting the order, hold that "we have not, to date, accepted that freedom of expression requires the facilitation of the unlawful sale of goods".

In another case, *S. Muthu Kumar v. The Telecom Regulatory Authority of India and 4 Others*, the videos made on TikTok apps are held not to be lawful expression of ideas as they are connected with pornography and exposure of children to disturbing content. Accordingly, the Madras High Court therefore issued an order prohibiting downloading of the mobile app as well as telecasting videos made on the app. The case could be contrasted with that of *Prager University v. Google LLC et al* where the Plaintiff sues the two Defendants, Google and YouTube, for allegedly censoring some of the videos he uploaded on YouTube based on his conservative political identity and viewpoints he holds. He contended such censorship to tantamount of violating his right to freedom of expression. The court however did not find for the Plaintiff, partly because the videos under contention contained hate speech. This is similar to the case of *Sikhs For Justice (SFJ), Inc. v. Facebook, Inc.* where the court rejected any of the several claims of the Plaintiff, a human rights group advocating for Sikhs independence in the Indian state of Punjab. The suit was instituted after the Facebook blocked the page of the group in India at the Indian government behest. The court decision had signaled that a propaganda of hate and disintegration could not enjoy the juice of freedom of expression.

8. Further Restrictions and Liability Regimes

There are further rules of liability (and those of immunity) spread across several areas of the law and in several legal systems. The ICT Act, 2006 enforced criminal liability in Bangladesh for dissemination, publication, transmission in the Electronic Information Transactions Law of Indonesia. The Computer Crimes Law, 2007 of Thailand provides information that information is seems negatively influence national security (including *lèse majesté*). Regarding regulations of telephone and wireless broadcasting, Section 39(3) of Nigeria is permitting the rights which are justified in a democratic society. Section 45 of the Constitution interest of defence, public safety, public order, public morality or public health; or to protect the rights and freedom of other persons have been focused. Other laws that curtailed the freedom of expression can be found in the Penal Code, the Criminal Code and the Cyber Crimes (Prohibition, Prevention, etc.) Act of 2015. Section 59(1) of the Criminal Code provides that,

Anyone who publishes any rumour or statement related to fear and alarming situations aims to hamper peace will be treated as a guilt and punishment of imprisonment for three years will be charged. They can defense by showing reasonable steps to prove the statement, rumour.

For Nigeria, defamation is a crime. Criminal defamation comes under Chapter 33 (Sections 373 – 381) of the Criminal Code. It is a "... matter likely to injure the reputation of any person by exposing him to hatred, contempt, or ridicule, or likely to damage any person in his profession or trade by an injury to his reputation." It can be a word both in written or spoken form. From one to seven years can be punishment. In the Penal Code, which applies to Northern States of Nigeria, criminal defamation is provided for in Chapter 23 (Sections 391 – 395). Section 391(1) provides that, whoever tries to defame anyone's reputation or aims to cause harm will be treated as representative causing imputation concerning any person. Fine can be last up to two years. Section 24 of the Cybercrimes (Prohibition, Prevention, etc.) Act of 2015, treat defamation as criminal offense which harms a person along with his property and standing. The violation of act leads to imprisonment terms up to 10 years and fines up to N25m.

9. Conclusion

On its face, telecommunications, as an aspect of technology, has nothing or little to do with freedom of expression, but nay, with the remarkable tools and applications linked to it, it had become an extended forum of exercising the freedom. The court in *Packing ham v. North Carolina* held the cyberspace of telecommunications as a 'modern public and democratic forum' of discussion and exchange of ideas. It follows therefore that the advancement of freedom of expression can globally be best achieved through the province of telecommunications. The infrastructural development of the telecom sector, therefore becomes more critical in modern democracies. This could be helped with the availability of affordable spectrum. This paper discusses about a stretchy framework that can regulate as well as can provide reasonable cost. Freely access can be made possible through unlicensed spectrum. This is the reason to provide unlicensed bands to operate devices. Wi-fi connections have been provided to connect devices. It also provides economic prices and

innovations to build new products. This will see to the proliferation of Wi- Public Wi-Fi hotspots serving as areas where anyone with a digital device can connect to the Internet.

As regards restrictions and derogation from the freedom of expression in telecommunications environment, courts of law are globally giving paramount deliberation aims to complement the contradictory interests between the right, the standing of the parties involved. This is obvious from the court orders approaching from all aspects of the world demanding forces of constraint of the right. But it is an indisputable fact that the right to freedom for expressing thoughts is not absolute, rather qualified. Various legal instruments both domestic and international had made this clear.

10. References

- i. 393 U. S. 503 (1969). See also *Nyambirai v. National Social Security Authority and Another*, 1996 (1) SA 636.
- ii. Case No. 16-CV-00213-WHO.
- iii. ISIS stands for Islamic State of Iraq and Syria.
- iv. See also *Force v. Facebook, Inc.*, Case No. 18-397 (2d Cir. 2019), where, though the claim in the case is on federal civil antiterrorism, it borders on the content of Facebook account as aspect of exercising freedom of expression. The plaintiffs in the case are U.S citizens of Hamas terrorist attacks in Israel. They, appealed the district court's dismissal of their claim against the Facebook that the unlawfully assisted Hamas in their attacks by posting contents that encourage their activities in Israel during the time of the attack. The District Court Circuit affirmed the District Court's judgement as to the claims. In other words, this is saying that contents of Facebook account are communications within the freedom of expression.
- v. 3GPP refers to 3rd Generation Partnership Project which develops protocols for mobile telephony and, was best known for the development and maintenance of GSM and related 2G and 2.5G standards, including GPRS and EDGE.
- vi. This refers to the ITU Radio communication sector which is one of the three sectors of the International Telecommunication Union, ITU, and is responsible for the radio communication and spectrum management.
- vii. ITU-D stands for ITU Telecommunication Development Sector which fosters international cooperation and solidarity in the delivery of technical assistance and in the creation, development and improvement of telecommunication and ICT equipment and networks in developing countries.
- viii. ITU-T stands for the ITU Telecommunication Standardization Sector which coordinate standards for telecommunications and Information Communication Technology such as X.509, Y.3172, and H.264/MPEG-4 AVC between ITU member states.
- ix. W3C stands for the World Wide Web Consortium which is the main international standards organisation for the World Wide Web, which engages in education and outreach of information and ideas.
- x. IETF stands for Internet Engineering Task Force, which is an open standards organisation which promotes voluntary internet standards, in particular the standards that comprise the internet protocol suite.
- xi. IEEE refers to the Institute of Electrical and Electronics Engineers.
- xii. ICANN stands for the Internet Corporation for Assigned Names and Numbers which is responsible for coordination and maintenance of several databases related to telecommunications and the internet.
- xiii. ISO is International Standard Organisation that develop and publish international standards.
- xiv. 1996 (1) SA 847.
- xv. No. S.C. 99/2000 Application No. 130/00.
- xvi. No. 18-1691-CV.
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- xix. 249 U. S. 47.
- xx. (1999) AHRLR 241; ACGPR 1999; Case No. 140/94, 141/94 and 145/95 (1999).
- xxi. No 228/99 (2003).
- xxii. [2005] ZACC 02, 7.
- xxiii. [1995] AC 534.
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- xxv. E.g. the Bill of Rights of the South African Constitution and Section 20 of the Constitution of Zimbabwe.
- xxvi. App No 5493/72, A/24, (1976) ECHR 5.
- xxvii. 1995 AIR 264.
- xxviii. (1992) 505 U. S. 144.
- xxix. The expression was coined in the French Grande Ecole Telecom Paris Tech, formerly known as Ecole Nationale Supérieure des Telecommunications.
- xxx. 521 U.S. 844 (1997).
- xxxi. (1990) 2 All ER 1.
- xxxii. (1996) Application 17488/90.
- xxxiii. (2007) EWCA Civ 101, 94 BMLR
- xxxiv. (1991) Crim L. R. 288.
- xxxv. (1981) 2 NCLR 625
- xxxvi. 457 U. S. 853 (1982).
- xxxvii. 319 U.S. 141 (1943).
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- xxxix. Skype is a telecommunications application that specializes in providing video chat and voice calls between computers, tablets and, mobile devices via internet.
- xl. Google Hangout is a communication software consisting two main products, Hangout Chat and Hangout Meet. The application enables free video or voice calls.
- xli. Instagram is a photo and video sharing social networking service owned by Facebook, Inc.
- xlii. YouTube is a video-sharing website.
- xliii. Blogger is a blog-publishing service, hosted by Google that allows multi-user blogs with time-stamped entries.
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- xlviii. how-free-speech-and-social-media-fit-together @ 3/9/19.
- xlix. Apple Inc. is one of the top electronic companies in USA that holds 2nd Ranking in mobile phone manufacturing and selling business with 22.4% Global Market Share as in 2019. Its phones are using its own Operating System named iOS.
- I. Samsung Electronics is a South Korean based company whose mobile phones are highly popular with cutting edge-technology and smart features.
- li. Huawei is a Chinese Multinational Company that manufacture its own brand of phones as well as for other electronic companies in the world. As at 2019, the company holds 3rd Ranking in mobile phone manufacturing and selling business with 8.57% Global Market Share.
- lii. LG is the fourth largest electronic company in South Korea.
- liii. On December 2, 2015, 14 people were killed and 22 others were seriously injured in a terrorist attack consisting of a mass shooting and an attempted bombing at the Inland Regional Center in San Bernardino, California.
- liv. The phone in question is iPhone SC running the ios9 Apple's software. The Apple operating system uses two factors to secure and decrypt data on the phone. These are the password the user chooses, and a unique 256-bit AES secret key that is embedded in the phone at the stage of manufacture. When a user password created a password, it gets 'tangled' with the secret key to create a passcode key that both secure and unlock data on the device. Whenever a user enters the correct password, the phone performs a calculation that combines these two codes and, if the result is the correct password, the device and data are unlocked. If, however, the result is a guess which failed, then a user-enabled function that limits the number of guesses someone can try before the password key gets erased. In such case, the data may remain on the device, but it cannot be decrypted and therefore become permanently inaccessible. In fact, after 10 failed guesses, the auto-erase feature is enabled by the user.
- lv. ConservativeHome (@ConHome) and The Labour Party (@labour).
- lvii. Viber is a cross-platform voice over IP and instant messaging software application operated by Japanese multinational company, Rakuten, provided as a freeware for the Android, iOS, Microsoft Windows, macOS and Linux platforms.
- lviii. Tango is a third-party, cross platform messaging application that is popular for offering video calls over 3G, 4G and Wi-Fi networks.
- lix. 3G is the third generation of wireless mobile telecommunications technology. It is the upgrade for 2G and 2.5G networks, for faster data transfer speed.
- lx. This is the fourth generation of broadband cellular network technology, succeeding 3G.
- lxi. Guerraoui, S. Morocco banned Skype, Viber, WhatsApp and Facebook Messenger. It didn't go down well, *ZenMarket Livre France*, <https://www.middleeasteye.net/fr/node/51446> @ 11/8/19.
- lxii. Ibid.
- lxiii. If you get Caught using a VPN in the United Arab Emirates, You'll Face Fines of up to \$545,000, *Business Insider*, <<https://www.businessinsider.com/using-vpn-in-uae-could-cost-you-545000-2016-7?IR=T>> @ 12/8/19.
- lxiiii. China VoIP Ban May Render Skype Illegal, *Softpedia News*, <<https://news.softpedia.com/news/China-VoIP-Ban-May-Render-Skype-Illegal-175544.shtml>> @ 12/8/19.
- lxv. Freedom of Expression and the Telecommunications and Internet Access Sector, *Global Campaign for Free Expression*, <<https://www.ohchr.org/Documents/Issues/Expression/Telecommunications/Article19.pdf>> @ 13/8/19.
- lxvi. Ibid.
- lxvii. (2017) SCC 34.
- lxviii. Case No. 7855 of 2019.
- lxix. TikTok is an iOS and Android social media video app for creating and sharing short lip-sync, comedy, and talent videos.
- lxx. Case No. 17-CV-06064-LHK.
- lxxi. Case No. 15-CV-02442-LHK.
- lxxii. Sections 57 and 59.
- lxxiii. Article 27(1).
- lxxiv. Section 20.
- lxxv. (2017) 137 S. Ct 1730.