

Determination of Civil Liability for Online Speech Defamation of Natural Persons

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Abstract: Online speech has been an important path for citizens to freely express their opinions and disseminate information. It plays a decisive role in modern communication. Due to the platform distinctiveness and rapid dissemination speed, it poses a great threat to the reputation right of others. By researching the determination of civil liability for online speech defamation of others' reputation rights and comparing relevant foreign laws and judicial practices, corresponding perfecting suggestions are proposed to maintain the reputation rights of others while protecting freedom of speech. It aims to promote the healthy development of cyberspace and construct a harmonious and safe online environment.

Keywords: Online Speech; Reputation Rights; Civil Rights.

1. Introduction

This paper is conducted to explore how to define the defamation of reputation caused by online speech under the unique cultural and legal environment of China and make the infringer bear corresponding civil liability on the premise of safeguarding freedom of speech. The study will examine judicial practice in relation to infringements of the right of reputation under current law, analyzing its temporary inability to adapt well to the temporary and changing challenges of the online environment. Given the wide reach and transversal nature of online speech, extraterritorial legal constructs and judicial practices were drawn on to search for better localized law-making in China by comparison.

2. Constitutive Requirements of Civil Liability for Online Speech Defamation of Natural Persons

First, fact-finding in infringement behavior. It is essential to establish the existence of an infringement behavior in cases of defamation through online speech. It needs to determine whether the actor has published content on the Internet that damages the reputation of others. Online speech possesses the features of rapid dissemination and wide reach. Once false statements are released, even if based on real events, it can easily be exaggerated or misrepresented to constitute a tort. Second, behavioral illegality. Determining the illegality of online speech is to directly examine the authenticity of the content. The behavior is clearly illegal if the content of online speech is false and deliberately fabricated to defame others. The illegality of online speech not only depends on the falsity of the content but also on the public nature of the content and its potential impact on society. Third, existence of subjective fault. In cases of online speech defamation, the subjective attitude of the actor is crucial. Fault is typically manifested as intent or negligence. Intent refers to the deliberate publication of false statements and the deliberate creation and dissemination of false information; negligence may be reflected in the failure to exercise reasonable diligence, i.e. the actor has not taken reasonable steps to verify the authenticity of the information. In today's online environment,

publishers tend to fail to verify information and lead to negligent dissemination due to the speed of information acquisition and the convenience of publishing. Fourth, determination of causal relationship. Causal relationship is also a key element in determining whether online speech constitutes an infringement of the right to reputation. The courts have to examine the direct link between the statements and the damage to reputation, i.e. whether these statements have led directly to actual damage to the reputation of the victim. Fifth, damage results. Damage results are usually reflected in the specific manifestations of the damage to the victim's reputation, such as a decline in the social evaluation of individuals or organizations or negative effects in social and professional circles. Clarifying the existence of damage results is a concrete quantification of the consequences of the tort. It is also the basis for determining the scope and method of civil compensation [1]. By clarifying the constitutive requirements of civil liability for online speech defamation of others' reputation rights, it can clearly define when speech behaviors in the online environment infringe the reputation rights of others and further clarify the civil liability of the party involved.

3. Legal Regulations and Lessons from Relevant Extraterritorial Online Speech

With the rapid development of Internet technology, the topics and scope of online speech have continued to expand, prompting more in-depth research into the regulation of Internet speech. Different countries have gradually improved their relevant laws, regulations, and judicial practices, and have gone through a process of evolution from simple to complex in regulating online speech. In particular, Western countries conducted targeted research earlier and more comprehensively into cases in which online speech may infringe the right to reputation [1]. While each country adapts its regulations according to local culture and applicability, learning from other countries' experiences and lessons can help China improve its legal standards for online speech. This will promote the healthy development of freedom of speech and the rule of law while protecting reputation rights.

3.1. Legal Regulations and Lessons from Online Speech in the United States

As the birthplace of the Internet, the United States has continued to refine its legal regime for online speech, particularly in dealing with cases of online defamation, demonstrating a unique maturity in effectively balancing freedom of speech with social responsibility. The US legal mechanism for online speech emphasizes the differentiated treatment of different types of speech. In the United States, speech is broadly categorized into three types, including political speech, commercial speech, and unprotected speech. Political speech enjoys the highest level of protection; commercial speech is protected but has somewhat less freedom than political speech; and harmful speech, such as libel, slander, and incitement to commit a crime, is classified as unprotected speech, subject to strict legal restrictions, especially regarding content that endangers minors. Thus, speech that violates the reputation rights of others, such as libel and slander, is not protected under US law. Such speech, once found to be false and harmful, may be subject to legal liability, thereby protecting the victims' reputation rights from unfair infringement. In addition, the United States places great emphasis on using technological means to effectively manage online speech by establishing a rating system that classifies online information according to certain standards. Users can access useful information and block harmful content through keyword searches, conditional filtering and category searches. Users can set personal filtering standards, ensuring freedom of speech while helping parents filter harmful information for minors. The US experience in regulating speech on the Internet, particularly in protecting reputation rights and preventing defamation, is a valuable reference for other countries. This mature legal system and regulatory model demonstrates how personal reputation can be protected through effective legal means, while fully respecting freedom of speech and maintaining a harmonious online order.

3.2. Legal Regulations and Lessons from Online Speech in Germany

Germany has adopted systematic and strict control measures in its legal regulation of online speech that infringes reputation rights. Germany was the first country to enact specific internet laws, which adopts a systematic approach to implementing strict controls on the balance between online speech and public interests. In 1997, Germany promulgated the first law specifically targeting the dissemination of network information in the world, the Information and Communication Services Act. It has established its pioneering position in global network legislation. The balance between rights and responsibilities is particularly important in German legal culture. Especially in cases of infringement of reputation rights, the protection of online speech in Germany is conditional. German law states that freedom of speech is a fundamental human right, but that it must not infringe the reputation rights of others or harm the public interest. Germany uses technological means to strictly control harmful speech that may disrupt social order, such as defamation and insult. In particular, the law imposes strict restrictions on the dissemination of Nazi content and information that is inappropriate for minors. Internet service providers are required to take appropriate filtering measures. In 2017, with the *Network Enforcement Act*, Germany further strengthened

the legal regulation of online content. Through a compliance review, the law strengthened the external supervision of public power over online platforms, remedied the deficiencies in the self-regulation of platforms, and encouraged online platforms to better fulfil their legal obligations and improve their self-regulation mechanisms. It also strengthened the accountability of online platforms through a notification mechanism, encouraging them to actively address issues such as infringement of online speech rights. German network regulatory agencies, such as the Online Police and the Data Network Investigation Centre, actively monitored online information and prevented various network security threats, including violations of reputation rights. These authorities have also set up special case handling points to receive reports from users, thereby strengthening the interaction between the public and law enforcement agencies and effectively reducing the negative impact of inappropriate speech on an individual's reputation. To sum up, in terms of legal provisions on the infringement of reputation rights by online speech, Germany has become an important reference for other countries in effectively managing cyberspace and protecting individual reputation rights by creating a network legal environment that protects individual freedom of speech while maintaining social order and good morals.

4. Refining the Rules for Determining Civil Liability for Online Speech Defamation of Natural Persons

Online speech has become an integral part of people's daily lives in the Internet age. However, China's legal regulations governing online speech are challenged by many issues. There is an urgent need to improve the rules for determining civil liability for online speech that infringes on the right to reputation of natural persons.

4.1. Enhancing the Effectiveness Level of the Legislative Class for Online Speech Freedom

With the rapid development of Internet platforms, the conflict between online freedom of speech and personal reputation rights has become more pronounced. Current regulations on online speech are diverse but uneven in their legal hierarchy. This has led to various legal and procedural shortcomings in the protection of reputation rights. Therefore, there is a need for legislation on online freedom of speech to improve its legal status, particularly in how to protect infringed reputation rights. Besides, laws shall provide clear and specific guidance and protection.

The NPC and its Standing Committee should expeditiously promulgate regulations with higher legal standards to better protect the rights of individuals to their reputations. These regulations must clearly delineate the legal content and limits of online freedom of speech. During the legislative process, particular attention should be paid to how online speech conflicts with reputation rights, what constitutes a violation of reputation rights, and what the legal consequences should be. Meanwhile, the law needs to address the new challenges of reputation protection in the online environment, including how to deal with reputation damage caused by anonymous speech. Furthermore, in order to ensure that laws governing online freedom of speech and reputation protection adapt to technological advances and social changes, the establishment of a monitoring and evaluation mechanism is crucial. This

mechanism should periodically review the implementation of relevant laws, especially those concerning the handling of reputation infringement cases, to ensure that these legal norms effectively address the realities of cyberspace. Special legislation is also essential for the maintenance of social order and the rights of individuals to have a good reputation. Clear legal provisions should be formulated for specific types of behavior, such as online defamation and cyberbully, to define the legal consequences of these types of behavior and to strengthen the legal constraints on online speech. This not only helps to regulate online behavior, but also provides robust protection for the reputation rights of victims [2].

In summary, through effective legislation and strict regulatory mechanisms, we can effectively protect and preserve individual reputation rights while ensuring freedom of online speech. The cooperation between the government, the social organizations and the public is of vital importance in this process. By engaging in public discussion and policy dialogue, we can work together to improve the laws designed to protect online freedom of speech and individual reputation rights. The refinement and improvement of these laws, based on a balance of individual rights, social stability and public security, will achieve a harmonious coexistence of speech and reputation rights in cyberspace.

4.2. Establishing the Principles of Interest Balancing and Proportionality

In refining the rules for determining civil liability for defamation of individuals through online speech, it is crucial to establish the principles of interest balancing and proportionality. These two principles are important legal tools in modern society for dealing with conflicts between freedom of speech and other social values. The principle of interest balancing has become an important guideline in the study of legal provisions governing freedom of online speech. The principle of proportionality, which is closely related to interest balancing, is a criterion for assessing whether the means used by a public authority to restrict fundamental human rights are reasonably related to the aim to be achieved, whether they respect the minimum necessary restrictions, and whether they are appropriate and proportionate.

4.2.1. Establishing the Principle of Interest Balancing

The principle of interest balancing in freedom of online speech is an important legal norm. The principle of interest balancing refers to the need to strike a balance between the protection of other rights and interests of society and the individual while protecting the personal freedom of speech. However, when rights are in conflict, the interests behind the rights should be weighed, and the priority of rights protection should be determined in accordance with the magnitude of the interests to maximize social benefits. Subjective value judgments and objective benefit judgments are among the criteria for measurement. Value judgments are based on individual subjective preferences, while benefit judgments are based on comparisons of the benefits of realizing different rights. Different rights have different interest bases and justifications. Online speech may also be subject to factors such as individual rights, public order, and national interests. Freedom of speech is a fundamental human right and everyone should have the right to express their opinions and views. Freedom of online speech provides a broad platform for communication. It promotes the dissemination of knowledge, the exchange of information and democratic participation. While this freedom is permitted and protected,

it does not mean that it is beyond the reach of the law. In the online environment, the principle of interest balancing is particularly important because the openness and anonymity of the Internet can lead to violations of the reputation rights of others or other negative social effects. Therefore, it is necessary to determine which rights should be prioritized for protection by weighing the interests behind them when an individual's freedom of speech comes into conflict with the reputation rights of others, social stability or public safety. The social value of each right and the specific consequences of exercising those rights must be fully considered in this balancing exercise.

4.2.2. Establishing the Principle of Proportionality

Establishing the principle of proportionality in freedom of online speech is the key to maintain social order and promoting individual freedom. In the establishment of this principle, there must be a balance between the importance of freedom of speech and other social values. The principle of proportionality provides guidance on how appropriate means should be used to achieve legal objectives. It requires that any measure restricting freedom of speech must be necessary, reasonable and in proportion to the legitimate aims to be achieved. In the context of online speech laws, the principle of proportionality requires lawmakers to ensure that restrictive measures not only address problems effectively, but also minimize restrictions on freedom of speech. This means that any restrictive measure must be the least intrusive way of addressing the problem and must clearly demonstrate that it is necessary to protect the public interest or the rights of others.

By applying these two principles, it is possible to protect individual freedom of speech while reasonably moderating and restricting behavior that may infringe the reputation rights of others or endanger the public interest. Together, the principles of interest balancing and proportionality provide the legal foundation for dealing with conflicts between freedom of online speech and other societal interests, helping to create a healthy online environment that respects individual freedom of speech while maintaining social order and public morality.

4.3. Enhancing the Operability of Network Real-Name Registration and Transparency of "Internet Police"

Disputes over freedom of online speech and real-name registration have increased with the rapid growth of online platforms. Improving the operability of network real-name registration and the transparency of "Internet police" have become two important directions in refining the rules for determining civil liability for defamation of natural persons through online speech. These measures are aimed at strengthening the supervision of online speech, building a harmonious and safe online environment, and promoting the protection of natural persons' reputation rights.

4.3.1. Enhancing the Network Real-Name Registration

Freedom of online speech is a fundamental human right. However, in practice, some anonymous users disrupt the harmony and security of the online environment through malicious attacks by means of false information. The purpose of strengthening network real-name registration is to enhance the authenticity of information in the online environment, thereby reducing the spread of false information and malicious attacks through anonymity or fake identities, which

are often the main sources of infringing reputation rights of others.

First, relevant laws and regulations should be established to require the use of real identity information in the process of network registration and use. At the same time, relevant legal responsibilities and punishment mechanisms should be clarified, and penalties should be imposed for violations of the real-name requirement. Second, through the establishment of a strict real-name authentication system, it is ensured that all network users must provide real identity information in the process of registration and use. Furthermore, network platforms need to strengthen the management of user identity information, ensure that user accounts are bound to their real identities, and promptly deal with accounts that have not been authenticated by real names or are suspected of fraudulently using others' identities. Moreover, advanced technological means, such as face recognition and identity verification technologies, are applied to strengthen the enforcement and regulatory effect of the real-name system. It is worth noting that while enforcing the real-name system on the Internet, it is also necessary to strictly comply with the laws and regulations on the protection of personal information to ensure that the privacy of users is not infringed upon.

Through the comprehensive application of these methods, the implementation of the network real-name system can be effectively promoted, enhance the standardization of cyberspace, reduce problems such as online fraud and the spread of false information, and promote the healthy and orderly development of the online environment. Meanwhile, attention must be paid to the protection of users' personal privacy and information security, the assurance of voluntary participation in real-name registration, and compliance with relevant laws, regulations and policies on the protection of personal information [3].

4.3.2. Enhancing the Transparency of "Internet Police"

It is equally important to increase the transparency of "Internet police" in order to protect freedom of online speech and citizens' rights in the context of freedom of online speech. This can effectively protect citizens' rights and interests and prevent Internet police from abusing their powers and invading people's privacy. Transparency in law enforcement is crucial to building public trust, as Internet police play a key role in regulating online content and maintaining network security. Specific methods include disclosing law enforcement information. Internet police should disclose information about their organizational structure, scope of responsibilities, and operations so that the public can understand their work and responsibilities.

Internet police departments should disclose their scope of responsibilities, workflows, and law enforcement standards. This will allow the public to clearly understand the legality and rationality of their law enforcement activities. In addition, the regular publication of law enforcement results and details of cases in progress can further enhance the transparency and credibility of law enforcement. Internet police should be subject to social and media scrutiny, and should open up major cases and controversial incidents to public scrutiny and comment. What's more, regularly publishing the outcomes of cases involving online defamation and publicly discussing issues arising from prosecutions are effective ways of increasing the transparency of law enforcement.

It is possible to significantly reduce online reputation violations while strengthening the legal protection of online

freedom of speech by strengthening real-name registration and enhancing the transparency of "Internet police". This requires the joint efforts of the government, online platforms, and all sectors of society, through various means such as legislation, technological use, and social supervision, to jointly build an online environment that respects and protects the right to reputation. Such an environment will ensure that everyone's reputation is not attacked without cause while protecting freedom of speech. It will also promote harmony and stability in the online community.

4.3.3. Emphasizing Citizen Legal Education in the Online Society

No matter how strict the laws or how well regulated the systems, illegal and criminal activities will continue. The problem of abuse of network rights can only be tackled fundamentally if citizens voluntarily develop a correct understanding of their rights and the legal responsibilities that go with them [4]. Therefore, as key participants in China's rule of law construction, citizens are the focus and foundation of legal education efforts. Strengthening civic education on network rights will not only improve citizens' self-protection awareness and legal concepts. It will also enhance legal awareness and civilization literacy in the society.

An effective way to increase public legal awareness is to use various communication channels to disseminate legal knowledge. First, by integrating educational resources, interesting and educational legal knowledge can be published on the Internet, social media and traditional media, which can attract the attention and participation of more members of the public. For example, legal education can be made more engaging and relatable through the creation of micro-videos, interactive quizzes and other forms of legal knowledge dissemination. Second, the systematic formulation and implementation of comprehensive legal education plans is crucial. Such plans should include both online and offline training programmes, regular festivals of legal culture, and legal education courses in schools. Finally, students' legal awareness and practical skills can be enhanced by strengthening legal education within the education system by integrating legal knowledge into daily learning and campus life through activities such as mock trials and legal debates.

It is also important to encourage citizens to learn about the law on their own. By providing easily accessible learning materials and online courses, citizens can be encouraged to study law in their spare time. This will not only help citizens to understand their rights and obligations, but will also enhance their ability to protect themselves in the network environment. Particularly in cyberspace, this can effectively improve their ability to identify and respond to violations of their reputation. Strengthening the role of social organizations and legal services institutions in legal education cannot be ignored either. These institutions can help the public correctly understand and apply legal knowledge through public lectures and legal advisory services, thereby enhancing the practical effectiveness of legal education.

5. Conclusion

Freedom of online speech is a fundamental human right that is increasingly recognized as important by citizens in modern societies, and is often used to promote the flow of information and the expression of their own ideas. Freedom of speech is an indispensable pillar of democracy today as well as a key means for public to express their opinions and

disseminate information. With the rapid development of the Internet and the ever-changing times, freedom of online speech is facing challenges such as information leakage, defamation and online violence. Balancing rights and protecting reputations is an urgent issue to be addressed in future lawmaking and judicial practice. We should strive to maintain public order and social stability, learn from successful international experiences, and continuously improve relevant legal norms, so as to establish a legal regulatory framework for network speech that is in line with China's socialist characteristics. Through legislative, judicial and social efforts, we aim to create a safe network environment that protects rights while effectively curbing actions that harm others' reputations.

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