

Social Media and the Rule of Law

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In today's fast-paced and constantly changing modern society, the rule of law continues to be the backbone of our Canadian democracy. This fundamental principle of justice conveys the idea that everyone is equal under the law, a right guaranteed in section 15(1) of the *Canadian Charter of Rights and Freedoms*. Established laws serve to protect our rights and ensure that we are treated fairly. The idea that no one is above the law confirms that laws apply to everyone equally, from ordinary citizens to government officials. In order to have a well-functioning civil society, all people must abide by the rule of law. It is the role of the courts to assure that this is being done, and the responsibility of judges and lawyers to protect citizens from any and all infringements of their rights and freedoms ("Legal Independence and the Rule of Law"). As society progresses, the public's growing usage of social media is influencing all aspects of the rule of law, including accountability under the law, open government, and the independence of the judiciary.

Historically, the rule of law is vital in protecting social structure and ensuring that arbitrary uses of power are not tolerated. Dating back to c. 350 BC., this rule has origins in the words of the great philosopher Aristotle, who wrote, "it is more proper that law should govern than any one of the citizens" (Aristotle). Laws create a stable society and safeguard citizens from being punished by the acts of others. Much later in 1689, John Locke stressed the importance of having "established standing laws, promulgated and known to the people" ("The Rule of Law"). Clearly publicized laws protect our rights from being infringed, while at the same time guarantee our freedom. Even in a technologically advanced society, the rule of law remains highly relevant in maintaining equity and addressing the issues that arise from a society becoming more reliant on social media.

The increasing presence of social media sites, and their growing number of users is evidence of a shift in the way people interact. A shocking 91% of Canadians who are online access at least one social media platform (McKinnon). Social media's growing popularity stems from the fact that it is fast-paced, easily accessible, and within itself contains no filters. Essentially, it is "largely devoid of rules- the antithesis of the deliberate-often snail like pace of the judicial process" (Cohen). It is important to note that the rule of law is an ideal, something that our society strives to live up to (Waldron). Social media can pose a threat to that because the way it operates is a direct opposite from the peace and order which the rule of law tries to achieve. The power of social media is completely arbitrary, and is susceptible to abuse because there are no rules controlling what one can post online. Therefore, it is often the source of false information and propaganda, to countless numbers of people who rely on it as their main news outlet.

Social media platforms function as online courts of public opinion (Cohen). The "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication" (*Canadian Charter*, 1982, s 2(b)) is protected in Canada and undoubtedly, is the basis of our democracy. Social media is powerful, but its power is escalated when in the hands of influential public figures. Simply take a look at the aftermath of the Colten Boushie trial. The Prime Minister, Minister of Justice, and Minister of Indigenous Services used Twitter to respond to the outcome of the trial, following the jury's verdict which found Gerald Stanley not guilty of second-degree murder in the death of Colten Boushie, a 22-year-old Indigenous man (The Canadian Press). A key principle of the rule of law is "under the Constitution, the judiciary is separate from and independent of the other two branches of

government, the executive and legislature” (“The Judiciary”). Consequently, it is reasonable that many saw these politician’s tweets as undermining the jury’s verdict, and in turn the judicial process that occurred. Most importantly, this “political interference” (The Canadian Press) raised concern over people’s confidence in our justice system, especially in its ability to act free from government influence.

This past year, the #MeToo movement has publicized the idea that everyone is accountable under the law, and that social standing does not influence whether a person’s wrongful actions are acceptable or not. This movement has catalyzed a “mass mobilization against sexual abuse, through an unprecedented wave of speaking out in conventional and social media” (MacKinnon). While having allegations made against someone online is not the same as being charged with a criminal offence, social media has provided a platform for victims to speak out. Critics argue that because allegations are made in this way, due process is not given to the accused as courts of public opinion automatically assume their guilt (Hayes). It is true that the fast-paced nature of social media is a contrast to the slow-paced judicial process, if a sexual assault trial were to occur in court. Simply, just the awareness this movement has raised is enough to elicit change. For example, employers can use it to update workplace policies denouncing sexual harassment (Bird). Without a doubt, taking steps like these further demonstrates how everyone is responsible for their actions under the law.

The usage of social media as a form of communication between citizens and the government is making democracy more transparent. In this case, it’s main function is “to connect with the public, influence decision makers and hold legislatures and governments to account” (Clarke). Social media is breaking barriers between the government and the public, as it gives

people a platform to directly interact with the lawmakers of our country. For instance, following the introduction of Bill C-61 in 2007, a law professor at the University of Ottawa, Michael Geist, started a Facebook group in opposition to *An Act to Amend the Copyright Act*. This bill was later tabled, and Professor Geist believes that “the online campaign contributed to the government’s decision to conduct public consultations on copyright legislation in 2009” (Clarke). Evidently, the feedback citizens give is taken into account by governments, and has the potential to produce substantive change. Previously, politicians would have had to travel to communicate with the public, but online platforms now enable them to hear the voices of Canadians across the country. Clearly, social media has strengthened the relationship between people and lawmakers, and made the entire process of how laws are enacted seem more accessible to the public.

As society moves towards being more dependent on technology, social media’s impact on the rule of law will only increase. The democracy we enjoy in Canada is a result of this ideal, and therefore any threat to the rule of law is a threat to our freedom. Social media’s influence on the various principles of this rule exhibit its power within a modern society. In making democracy more transparent, it allows people to be better involved in the lawmaking process. Social media demonstrates how our society does not tolerate arbitrary abuses of power, based on the belief that everyone is accountable under the law. While highlighting the importance of judicial independence, it recognizes how vital this principle is in the functioning of a fair and just society. The rule of law is a cornerstone of Canada’s democracy, and despite challenges natural to occur in a progressing society, it is continuing to shape our world.

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