



Freedom of expression, hate speech, and constitutional limits: the protection of honor and image on social media and the role of the Supreme Federal Court.

Freedom of expression, hate speech and constitutional limits: the protection of honor and image on social networks and the role of the supreme Federal court

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Summary

This article aims to analyze the relationship between freedom of expression and social responsibility within the context of the Brazilian democratic rule of law, highlighting the role of the Supreme Federal Court (STF) in protecting fundamental rights. The research seeks to understand how the Constitutional Court balances the exercise of freedom of expression with the protection of honor, image, and human dignity, especially in light of the advancement of digital technologies and the intensification of hate speech on social media. It observes that, although freedom of expression is an essential pillar of democracy and an instrument of citizen participation, it is not an absolute right and must be exercised within the constitutional and ethical limits that ensure harmonious social coexistence. The STF's actions are crucial in defining these limits, weighing the free expression of thought against protection against communicative abuses, such as the dissemination of fake news and attacks on democratic institutions. The study also highlights that political polarization and the absence of adequate accountability strengthen anti-democratic practices, making it necessary for the State, civil society, and digital platforms to work together to promote responsible freedom of expression, committed to pluralism, truth, and the strengthening of Brazilian democracy.

Keywords: Freedom of expression; hate speech; constitutional limits; protection of honor/image; social media; Supreme Federal Court.

Abstract

This article aims to analyze the relationship between freedom of expression and social responsibility within the context of the Brazilian Democratic State of Law, highlighting the role of the Supreme Federal Court (STF) in protecting fundamental rights. The research seeks to understand how the Constitutional Court balances the exercise of freedom of expression with the safeguarding of honor, image, and human dignity, especially in light of the advancement of digital technologies and the intensification of hate speech on social media. It is observed that, although freedom of expression is an essential pillar of democracy and an instrument of civic participation, it is not an absolute right and must be exercised within constitutional and ethical limits that ensure harmonious social coexistence. The STF's role proves crucial in defining these boundaries by weighing freedom of thought against protection from communicative abuses such as the spread of fake news and attacks on democratic institutions. The study also highlights that political polarization and the lack of adequate accountability reinforces anti-democratic practices, making it necessary for the State, civil society, and digital platforms to work together to promote a responsible exercise of freedom of expression, committed to pluralism, truth, and the strengthening of Brazilian democracy.

Keywords: Freedom of expression; hate speech; constitutional limits; protection of honor/image; social networks; Supreme Federal Court.



1. INTRODUCTION

Freedom of expression is one of the pillars of modern democracies and is enshrined in... Article 5, item IX, of the 1988 Federal Constitution, which guarantees everyone the right to demonstrate. Freedom of thought. However, no fundamental right is absolute, and the very The Constitution imposes limits when a demonstration becomes an instrument of discrimination. Incitement to violence or attacks on human dignity. In this context, the debate arises regarding... To what extent can freedom of expression coexist with the prohibition of hate speech?

However, the effectiveness of this right may be compromised when there is a lack of Proportional and timely accountability fosters abuses such as the spread of discourses of hate, the spread of misinformation, and attacks on democratic institutions. This phenomenon of “Communicational impunity” weakens trust in republican structures and compromises the realization of other fundamental rights, a reflection of institutional deficiencies that permeate the Judicial delays, political capture, and insufficient regulatory and oversight mechanisms.

The intensive use of social networks and the advancement of digital communication technologies. They have significantly expanded the reach and speed of information circulation, altering Essentially, the dynamics of contemporary public debate. Digital platforms They have become established as arenas for social expression and deliberation, but they have also become This situation creates environments conducive to the dissemination of illegal content and hate speech. This highlights new challenges to the legal protection of freedom of expression, especially with regard to defining criteria for holding agents accountable and formulating effective mechanisms for Regulation of conduct in the virtual environment.

Some researchers speak of a lack of punishment in communication, because there is no Institutional responses to abuses in the digital space. The lack of swift and fair punishment ends up encouraging misinformation, intolerance, and a worsening of public debate, which undermines trust. in democratic institutions. The digital medium helps to spread facts and opinions quickly, and neither There's always some control over this. The slowness of the justice system, the lack of oversight, and the absence of programs. Media literacy education is making the situation worse.

That's where the Supreme Federal Court (STF) becomes important, as it is the guardian of The Constitution and who interprets fundamental rights. The Supreme Court's decisions on freedom of Hate speech and expression help define what is allowed and what is not, especially in certain cases. involving social media. When judging cases concerning the right to express oneself and the protection of honor and



From the image, the Court attempts to balance democratic debate with respect for dignity. human, showing that freedom of expression must be used responsibly.

Thus, this article aims to analyze freedom of expression taking into account the limits of Constitution to combat hate speech and protect honor and image in the virtual environment. It also intends to analyze what the Supreme Federal Court has done to combine freedom of This expression reflects the government's duty to prevent abuse and discrimination. The goal is to help in... discussion on how to create rules that protect freedom, but also guarantee respect for fundamental rights on social media.

Finally, it becomes essential to reflect on the limits of freedom of expression in Democratic and pluralistic societies, especially in light of the Brazilian reality. The debate surrounding hate speech, amplified by the digital environment and social media, highlights the tension The existing conflict between the exercise of freedom of expression and the need to protect other values. equally guaranteed by the Federal Constitution, such as the dignity of the human person and equality.

2. Freedom of Expression and its Constitutional Limits

Freedom of expression, while essential for the consolidation of the Democratic State of The right to full citizenship is not an absolute right. The 1988 Federal Constitution recognizes its fundamental value, but also establishes limits when... The exercise of this right conflicts with other equally protected rights, such as honor, image, the privacy and security of the person (article 5, items V and X). This balance is essential for to prevent the expression of thought from turning into abuse, a threat to social coexistence, or harm to the integrity of third parties, especially in the context of digital platforms, where Information spreads rapidly and without filters.

According to José Afonso da Silva (2010), “freedom of expression is not unlimited, being subject to restrictions when in conflict with other rights equally protected by “Constitution.” This position reinforces the need for a balance between the right to expression of thought and other constitutional values, ensuring the protection of Human dignity should not be compromised. The digital environment, marked by anonymity and... The ease of dissemination intensifies the risks of violating personality rights.

increasing the relevance of legal and jurisprudential mechanisms that define clearly the limits of expression.

Contemporary doctrine, including that of Alexandre de Moraes (2020), highlights that the limitation Freedom of expression should not be confused with censorship. On the contrary, it is a measure of Protection of fundamental rights and preservation of democratic order. Restrictions should be proportionate, well-founded and justified, in order to guarantee that legitimate criticisms, complaints and Political opinions remain protected, while abusive, slanderous, and discriminatory conduct is prohibited. or that constitute hate speech should be held accountable.

The Brazilian Supreme Federal Court has consolidated this understanding in its jurisprudence. Cases such as ADPF 130/DF, which discussed the Press Law, and Inquiry 4.781/DF, related The spread of fake news and attacks on members of the Court demonstrate that the Court is working to... To define the limits of freedom of expression. The Supreme Federal Court adopts case-by-case balancing criteria. distinguishing between legitimate expressions of opinion and communicative abuses, protecting public debate and Political criticism, but curbing conduct that violates human dignity and incites... hate, violence, or promoting discrimination.

In the context of hate speech, this action proves even more relevant. The spread offensive messages targeting specific social groups — whether based on race, gender, or sexual orientation Sexual orientation, religion, ethnicity, or political stance—this can exacerbate individual and collective harm, and may to generate concrete effects, such as social exclusion, persecution, and even physical violence. In this scenario, the Case law and legal doctrine converge on the need for integrated public policies, which They combine legal accountability, digital education, and social awareness, without censorship. prior to legitimate opinions.

In short, the recognition that freedom of expression has limits. Constitutional principles do not diminish their importance; on the contrary, they strengthen their responsible exercise. Balancing the right to freedom of expression with the protection of honor, image, and... Moral integrity and human dignity are promoted, along with ethical freedom of expression and democratic, capable of consolidating pluralism, citizenship, and the principles of the democratic state. of Law.

In this way, the digital environment and public spaces become arenas for healthy debate.

Citizen oversight and institutional strengthening, while maintaining freedom as
An instrument of social construction, not destruction.

An analysis of freedom of expression from a constitutional perspective reveals that the core of its
Protection lies in promoting political pluralism, the free flow of ideas, and social criticism.
However, the exercise of this right must observe the ethical and legal parameters that ensure it.
harmonious social coexistence. The prevalence of hate speech and misinformation, especially in
digital platforms demonstrate that public debate can be instrumentalized for purposes
antidemocratic, which is why the State must act as guarantor of the legal order and promoter.
The balance between freedom and responsibility.

The balancing of fundamental rights, as developed by Robert Alexy
(2008) offers an important theoretical framework for this analysis. The weighting methodology
It allows the constitutional interpreter to seek proportionate solutions, preserving, as much as possible...
If possible, the essential content of each conflicting right. Thus, when freedom of expression
If a conflict arises with honor or image, the principle of proportionality must be applied, observing the...
The suitability, necessity, and appropriateness of state intervention.

From this perspective, the role of the Supreme Federal Court becomes even more relevant.
because it is up to the Court to establish parameters that guide lower courts and society regarding
within the legitimate limits of freedom of expression. Landmark decisions, such as those made
in ADPF 130 (which declared the non-reception of the 1967 Press Law) and in ADI 4815 (which
analyzed artistic freedom and the right to criticize), reaffirming the understanding that the right to
Freedom of expression is vital to democracy, but it cannot be used as an instrument to violate it.
human dignity.

Finally, it is worth highlighting the consolidation of a democratic culture in the digital environment.
It depends not only on the actions of the Judiciary, but also on public policies aimed at...
Media literacy and the promotion of digital citizenship. Raising awareness about the ethical use of...
Freedom of expression, coupled with effective accountability mechanisms, contributes to strengthening
Public debate, ensuring plurality, and preventing the normalization of violent discursive practices.
Therefore, the protection of honor and image is presented as a necessary condition for the exercise of rights.
A balanced and democratic freedom of expression.

3. HATE SPEECH AND SOCIAL NETWORKS

Hate speech transcends the mere expression of differing opinions; it is about demonstrations that attack groups or individuals based on race, gender, sexual orientation, religion, ethnicity, or political stance, promoting exclusion and violence. In the digital context, the speed and reach of social media intensify the effects of this phenomenon, often generating concrete consequences, such as physical assaults, social exclusion, or political persecution.

As Ingo Sarlet (2019) points out, hate speech has become a global problem requiring regulation that balances the right to freedom of expression with the protection of others' fundamental rights. Anonymity and ease of dissemination on digital platforms complicate holding perpetrators accountable and pose challenges for legislation and the government's Judiciary.

In this scenario, the role of the State and the Supreme Federal Court (STF) becomes crucial. The Supreme Federal Court (STF), as guardian of the Constitution, must mediate the delicate balance between freedom and Constitutional limits and ensure that legitimate criticism is not censored, but that harmful manifestations, such as hate speech, should be suppressed.

The Court has, in recent decisions, reinforced that freedom of expression cannot serve as a shield for discriminatory practices or incitement to violence, maintaining the coexistence between democratic pluralism and respect for fundamental rights.

Furthermore, the problem of hate speech on social media highlights the need for integrated public policies, combining digital education, awareness of the impact of social manipulation of words and legal accountability mechanisms, without this turning into prior censorship. The challenge, therefore, is to promote responsible freedom of expression, ensuring that the digital environment be a space for healthy and democratic debate.

The 1988 Federal Constitution, in enshrining freedom of expression in Article 5, paragraph IX, and the prohibition of anonymity in item IV, demonstrates the constituent legislator's concern to guarantee freedom of expression, but within ethical and legal parameters. Thus, the Freedom of expression must be understood as a right that is exercised in harmony with other constitutional values, such as the dignity of the human person, equality, and pluralism.



The Supreme Federal Court itself, in several rulings — such as in *Inquiry 4.781/DF* (the fake news case) — has stated that freedom of expression is not absolute and that the State must act to curb it. Practices that undermine democracy and human rights. This jurisprudence reinforces the idea that the exercise of this fundamental right must occur responsibly, and that it is legitimate to State intervention is warranted when there is a violation of other legal rights of equal or greater importance. constitutional.

In addition, scholars such as Georgete Freitas (2022) emphasize that the spread The rise of hate speech on digital platforms reflects an ethical and communicational crisis, in which... The absence of limits and impunity end up normalizing discriminatory behaviors. Thus, it becomes essential that the legal system advance in the construction of instruments. normative and educational guidelines that ensure the conscious use of language, without this implying... undue restriction of political criticism or artistic expression.

Therefore, confronting hate speech demands a multidimensional approach. involving not only the legal and judicial apparatus, but also the participation of civil society, from digital platforms and educational institutions. Only through a collective effort. It will be possible to reconcile the full exercise of freedom of expression with the protection of rights. fundamental, preserving the democratic values that underpin the rule of law.

4. THE ROLE OF THE SUPREME FEDERAL COURT

The Supreme Federal Court acts as guardian of the Constitution, evaluating cases in which There is a conflict between freedom of expression and the protection of personality rights (honor, image, (moral integrity). The Court seeks to establish criteria for:

1. Freedom of expression is a fundamental right guaranteed by the Constitution. Federal (article 5, IX), essential for democracy, political pluralism, and citizen participation. In However, it is not an absolute right. Identifying its limits means recognizing that manifestations Freedom of thought cannot violate other fundamental rights, such as honor, image, and Privacy versus public safety. This balance is necessary to prevent the freedom of expression from being compromised. without it turning into hate speech, incitement to violence, or the spread of fake news, without to undermine democratic coexistence. The Supreme Federal Court (STF) plays a central role in defining these limits, analyzing the case



a case to ensure that the protection of other rights does not unfairly override the Freedom of speech.

2. Punishing excesses involves holding accountable those who cross the line. Constitutional offenses, such as insults, slander, defamation, or speeches that promote hatred and violence. However, it is crucial that this punishment does not stifle legitimate criticism, especially those... directed to the government, public authorities or institutions, which constitute the normal exercise of Citizenship and democratic oversight. The jurisprudence of the Supreme Federal Court reinforces that political criticism and opinion... Divergent actions are protected, with only acts that constitute abuse, serious personal offense, or Incitement to violence should be punished. This balance avoids the need for prior censorship. and preserves the democratic space for debate. Guarantee the protection of the democratic order.

3. Protecting the democratic order consists of ensuring freedom of expression. contribute to the strengthening of institutions and civil society, and not to their own. Destabilization. This includes curbing speeches that promote violence or violate rights. fundamental or encourage the breaking of legality. At the same time, the State must create effective mechanisms for oversight and accountability, promoting education for citizenship and regulating, when necessary, the use of social networks and digital media. In this way, it is possible to maintain the A balance between freedom of expression and the maintenance of social peace, equality, and the State. Democratic Rule of Law.

In summary, the Supreme Federal Court has played a decisive role in the construction from a body of case law that affirms freedom of expression as an essential, but not absolute, right. In establishing criteria to distinguish the legitimate use of language from communicative abuse, the Court reaffirms its commitment to the balance between democratic pluralism and the protection of Human dignity, an indispensable pillar of the democratic rule of law.

5. CONCLUSION

To combat the challenges and distortions related to the misuse of freedom of expression, such as the dissemination of hate speech and disinformation, it is essential to ensure that The oversight and control bodies must have adequate resources and autonomy to carry out their duties. their functions effectively, promoting the proportionate accountability of agents who exceed the constitutional limits of this fundamental right. Only with efforts

With coordinated and firm action, it will be possible to confront these threats and ensure coexistence.
A democratic system guided by respect, pluralism, and fair justice.

1. Strengthening investigations: Reinforcing the investigative and enforcement bodies of laws responsible for dealing with abuses related to freedom of expression, such as the dissemination combating hate speech and fake news. This involves allocating adequate resources and training. specialized and use of technologies that allow for quick and effective investigation;

2. Improving legislation: Evaluating and adjusting existing regulations to achieve a balance. The exercise of freedom of expression with the protection of other fundamental rights. This includes The definition of clearer criteria for characterizing excesses, as well as the provision for sanctions. proportionate measures and mechanisms that ensure due process.

3. Procedural efficiency: Implement measures to expedite the processing of cases. involving violations related to freedom of expression, especially in the digital environment. This This can include the creation of specialized rods or chambers, as well as the use of technologies that... Streamline the collection and analysis of evidence.

4. Transparency and accountability: Establish mechanisms that encourage digital platforms, media outlets, and public officials must act responsibly. being accountable for their practices and decisions. This may include periodic moderation reports. content and accessible channels for reporting.

5. Education and awareness: Invest in media literacy programs and digital citizenship, aimed at raising societal awareness about the ethical use of freedom of expression. Critical education of the population contributes to reducing the spread of misinformation. and to value healthy public debate.

6. International collaboration: Expanding cooperation with international organizations. to address transnational challenges, such as the global circulation of misinformation and content illegal activities. The exchange of experiences and best practices strengthens the protection of freedom of expression in an increasingly interconnected digital environment.

7. Independent monitoring: Establish monitoring instances. independent committees, composed of experts and representatives of civil society, that monitor the application of the rules and ensure that freedom of expression is protected, leaving no room for arbitrary censorship

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