



THIRD PARTY INTERVENTION  
EUROPEAN COURT OF HUMAN RIGHTS  
GRAND CHAMBER

Application no. 64569/09  
Delfi AS V. Estonia

INTRODUCTION

These comments are prepared and submitted by Access, pursuant to leave granted by the President of the Court on 21 May 2014, in accordance with rule 44 § 3 of the Rules of the Court. As directed, these submissions do not address the facts or merits of the applicant's case.

Access is an international organization that defends and extends the digital rights of users at risk. Access has participated in several initiatives and reports<sup>1</sup> launched by the Council of Europe regarding internet freedoms and freedom of expression. One signature initiative of Access ensures that stakeholders from all sectors respect and protect the fundamental rights of telecom and internet users across Europe. It is in this context that we submit these written comments.

The issues at stake in *Delfi AS v. Estonia* reach to the heart of how the web functions, and the internet's role as an innovative platform essential to the exercise of rights in the 21st Century. The liability of "intermediaries," or sites and services that host content generated by others, was recognized early in the web's development as a key issue. Careful balances were struck to encourage expression and innovation online while protecting individual rights. Access is concerned that increased liability for user content, as through laws and regulations penalizing anonymous and pseudonymous expression, disrupts this balance and risks stunting the web's growth and utility as an open and free resource for all to realize their human rights.

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<sup>1</sup> See, e.g., Access. *Internet freedom and the right to private life, protection of personal data, and due process of law*. 7-8 November 2013. Accessed 2 June 2014, [http://www.coe.int/t/dghl/standardsetting/media/belgrade2013/MCM%282013%29008\\_en\\_Report\\_MacDonald19.pdf](http://www.coe.int/t/dghl/standardsetting/media/belgrade2013/MCM%282013%29008_en_Report_MacDonald19.pdf)

## EXECUTIVE SUMMARY

This submission aims to demonstrate the importance of respecting and allowing anonymity on the internet. The comments presented herein will show that protecting the right to anonymity will result in support for freedom of expression and privacy -- fundamental human rights -- while preserving the values that enabled the internet and web to become vital economic forces globally.

The European Convention on Human Rights (ECHR) secures the right to privacy, in Art. 8, and the right to freedom of expression, in Art. 10. Together, these rights include the right to anonymity. The loss of anonymity and pseudonymity in online spaces has a chilling effect on freedom of expression, undermines privacy, and threatens people's lives and livelihoods. This submission argues that instead of restricting communication, policymakers and companies should concentrate their efforts on enabling a wider body of internet users to more freely express themselves online.

### **1. The right to anonymous and pseudonymous expression is an historically protected right in international and domestic law and norms.**

1.1. Historical examples demonstrate the importance of anonymous expression to political and social movements, as well as individual health and welfare. In the 18th Century, Alexander Hamilton, James Madison and John Jay authored the Federalist Papers, a series of essays advocating the adoption of the United States Constitution, under the pseudonym Publius.<sup>2</sup> The Anti-Federalists, who responded with critiques to the Federalist Papers, also published anonymously.<sup>3</sup> George Orwell, who wrote 1984 and Animal Farm, was not born George Orwell, but, instead, Eric Blair. Authors like Samuel Clemens (Mark Twain) and Mary Ann Evans (George Eliot), and artists like Caravaggio (Michelangelo Merisi) and Banksy (unknown), adopted different names or are unknown for a variety of reasons ranging from persecution to prejudice to privacy.<sup>4</sup> On an everyday level, people often feel more comfortable seeking professional care and assistance in anonymous settings, including health support groups, and curtail communication when privacy is threatened.<sup>5</sup>

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<sup>2</sup> Library of Congress. *The Federalist Papers*. Accessed 1 June 2014, <http://www.loc.gov/rr/program/bib/ourdocs/federalist.html>

<sup>3</sup> Dry, Murray. *The Constitutional Thought of the Anti-Federalists*. Accessed 1 June 2014, <https://www.apsanet.org/imgtest/ConstThoughtAntifederalists.pdf>

<sup>4</sup> Sneed, Tierney. *Robert Galbraith and the Story Behind 7 Other Famous Pen Names*. U.S. News & World Report. 15 July 2013. Accessed 1 June 2014, <http://www.usnews.com/news/articles/2013/07/15/jk-rowlings-robert-galbraith-joins-mark-twain-george-orwell-and-lewis-carrol-as-world-famous-pen-name>

<sup>5</sup> Sander, Florian. *Data Retention Effectively Changes the Behavior of Citizens in Germany*. 4 June 2008. Accessed 2 June 2014, <http://www.kreativrauschen.com/blog/2008/06/04/data-retention-effectively-changes-the-behavior-of-citizens-in-germany>

1.2. Throughout the 20th Century, international agreements including the ECHR recognized and protected the right to privacy and the right to freedom of expression.<sup>67</sup> Recently, the UN Human Rights Council affirmed that these rights, “in particular freedom of expression,” apply online as they do offline.<sup>8</sup> The ECHR connects privacy and free expression, through the restriction on “interference by public authority” in Articles 8 and 10.<sup>9</sup> Access believes a regulatory prohibition on anonymous use of the internet would constitute this type of interference.

1.3. Anonymity and pseudonymity support the fundamental rights of privacy and freedom of expression. Frank La Rue, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, links privacy and anonymity with the exercise of free expression online. The Special Rapporteur stated:

In order for individuals to exercise their right to privacy in communications, they must be able to ensure that these remain private, secure and, if they choose, anonymous. Privacy of communications infers that individuals are able to exchange information and ideas in a space that is beyond the reach of other members of society, the private sector, and ultimately the State itself. Security of communications means that individuals should be able to verify that the communications they receive are equally free from intrusion. Anonymity of communications is one of the most important advances enabled by the Internet, and allows individuals to express themselves freely without fear of retribution or condemnation.<sup>10</sup>

1.4. Any restrictions on the right to privacy, according to the Special Rapporteur,<sup>11</sup> should be subject to the same “permissible limitations” test as the right to freedom of expression. Pursuant to General Comment no. 34 of the Human Rights Committee, such

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<sup>6</sup> The right of privacy is guaranteed under the European Convention on Human Rights (art. 8) (“ECHR”), the Universal Declaration of Human Rights (art. 12), and the International Covenant on Civil and Political Rights (“ICCPR”) (art. 17). The right to privacy is also enshrined and recognized by the Convention on the Rights of the Child (art. 16), the International Convention on the Protection of All Migrant Workers and Members of Their Families (art. 14), and the American Convention on Human Rights (art. 11).

<sup>7</sup> The right to freedom of expression is guaranteed in article 10 of the ECHR, the ICCPR (art. 19), the African Charter on Human and Peoples’ Rights (art. 9), the American Convention on Human Rights (art. 13), and the Convention for the Protection of Human Rights and Fundamental Freedoms (art. 10).

<sup>8</sup> Human Rights Council resolution 20/8, *The promotion, protection and enjoyment of human rights on the Internet*, A/HRC/20/L.13 (29 June 2012), available at [undocs.org/A/HRC/20/L.13](http://undocs.org/A/HRC/20/L.13).

<sup>9</sup> The European Convention on Human Rights, article 10, see <http://www.hri.org/docs/ECHR50.html>

<sup>10</sup> La Rue, Frank. *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*. Human Rights Council. General Assembly, United Nations of 17 April 2013. A/HRC/23/40 p.7.

<sup>11</sup> *Id.* p. 8.

“permissible” restrictions must be provided by law; strictly serve a legitimate aim (respect of the rights and reputations of others, protection of national security or of public order, or of public morals or health, as defined by G.C. 34); and meet a high standard of legality, proportionality, and necessity.<sup>12</sup>

1.5. Government restrictions on anonymous expression should be subject to this test. Laws and regulations that penalize or limit anonymous speech prohibit the speaker from *omitting* their identity from their expression. Applying the test, we find that restrictions on anonymous expression apply disproportionately, to all potential speakers; do not strictly serve any particular aim; and are not necessary to achieve any legitimate aim. Thus, the restrictions do not meet the test in G.C. 34, the official interpretation of the ICCPR.

1.6. Further, blanket restrictions on anonymous and pseudonymous expression impair the very essence of the rights to privacy and freedom of expression. Those from at-risk groups, whether domestic abuse victims, political minorities, or corporate whistleblowers, are often those speaking out against injustice and giving unpopular opinions. By imposing this prior restraint on speech, governments force would-be speakers to relinquish privacy, putting them in danger of retaliation. As a result, many would-be speakers may choose not to express themselves. The bounds of public debate would shrink to those without motive or reason to conceal their identities, and this chilling effect would prevent crucial ideas and information from reaching the public.

1.7. Domestic courts have built a body of law specifically protecting the right to anonymous communication. Through its interpretation of the First Amendment to the U.S. Constitution, the U.S. Supreme Court has protected the right to speak anonymously, most notably in the cases of *Talley v. California*, 362 U.S. 60 (1960), *Watchtower v. Vill. of Stratton*, 536 U.S. 150, 166–67 (2002), and *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995). In *Talley*, the majority of Justices found that, “Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind. Persecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all.”

1.8. In *Watchtower v. Vill. of Stratton*, the Supreme Court upheld the right to proselytize anonymously from door to door against a community’s assertion of the right to require persons planning solicitations to register.

1.9. Also, in *McIntyre*, the Supreme Court struck down an Ohio law in 1995 that required individuals to print their name and address “in a conspicuous place” on political literature. Associate Justice John Paul Stevens, writing for the majority, applied strict scrutiny and found the law unconstitutionally vague. Stevens noted that:

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<sup>12</sup> *Id.* p. 8 and 9.

Protections for anonymous speech are vital to democratic discourse. Allowing dissenters to shield their identities frees them to express critical minority views ... Anonymity is a shield from the tyranny of the majority ... It thus exemplifies the purpose behind the Bill of Rights and of the First Amendment in particular: to protect unpopular individuals from retaliation ... at the hand of an intolerant society.<sup>13</sup>

1.10. Lower federal U.S. courts also provide some guidance on the interpretation of anonymous speech rights. In *ACLU v. Miller*, several plaintiffs sued to enjoin a Georgia law criminalizing the use false names by individuals on the internet.<sup>14</sup> The plaintiffs argued that the statute restricted their right “to communicate anonymously and pseudonymously over the internet.”<sup>15</sup> The district court, relying on *McIntyre* for the proposition that a speaker’s identity is “no different from other components of [a] document’s contents that the author is free to include or exclude,”<sup>16</sup> found that the plaintiffs were substantially likely to prove that the statute was unconstitutional.<sup>17</sup>

1.11. Courts in the United Kingdom have also reasonably decided against the disclosure of identity. In *Totalise PLC v. The Motley Fool*,<sup>18</sup> Aldous LJ stated that no order might be made for disclosure of a data subject’s identity “unless the Court had first considered whether the disclosure was warranted, having regard to the rights and freedoms or the legitimate interests of the data subject.” He also warned “the court must be careful not to make an order which unjustifiably invades the right of an individual to respect for his private life... .” In *Sheffield Wednesday Football Club Ltd v. Hargreaves*,<sup>19</sup> a website owner was permitted to protect the identity of authors of comments in the website’s chat room, as the comments were barely defamatory and thus identification would be “disproportionate and unjustifiably intrusive.”

1.12. Similarly, a German court has found that, “The typical use of anonymity on the internet corresponds to the fundamental rights interests.”<sup>20</sup> From the cases outlined above, a robust tradition has emerged protecting anonymous expression as an essential aspect of the rights to privacy and freedom of expression, online and offline.

## **2. Laws and policies allowing anonymity and pseudonymity online have enabled innovation and economic growth for content and service providers.**

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<sup>13</sup> *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), p.24.

<sup>14</sup> 977 F. Supp., 1228, 1230 (N.D. Ga. 1997).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 1232 (quoting *McIntyre*, 514 U.S. at 340-42).

<sup>17</sup> *Id.* at 1234-35.

<sup>18</sup> *Totalise Plc v. The Motley Fool Ltd & Anor* [2001] EWHC 706 (QB) (19 February 2001).

<sup>19</sup> *Sheffield Wednesday Football Club Ltd and others v. Hargreaves* [2007] EWHC 2375 (QB), [2007] All ER (D) 270 (Oct).

<sup>20</sup> Oberlandesgericht Hamm, Case n. I-3 U 196/10. Accessed 3 June 2014, [http://www.justiz.nrw.de/nrwe/olgs/hamm/j2011/I\\_3\\_U\\_196\\_10beschluss20110803.html](http://www.justiz.nrw.de/nrwe/olgs/hamm/j2011/I_3_U_196_10beschluss20110803.html)

2.1. Some of the most popular sites and services on the internet today allow and encourage users to conceal their identities. Twitter, the ninth most visited website in the world,<sup>21</sup> allows pseudonymous micro-blogging and requires only an email for registration.<sup>22</sup> Reddit, the world's 58th most visited site,<sup>23</sup> which allows users to post links and comments, does not even require the registrant provide an email address.<sup>24</sup> Reddit has a robust commenting community, at times garnering more than 10,000 comments and votes on a single post.<sup>25</sup> Weibo, a Chinese micro-blogging site, attracted more than 300 million users, before requiring users to use their real names.<sup>26</sup>

2.2. Services meant to provide enhanced confidentiality and anonymity while using the web and internet have become more popular in the wake of revelations of mass surveillance online starting in June 2013. For instance, use of Tor, an anonymous browsing network, doubled between October 2012 and October 2013.<sup>27</sup> The search engine Duck Duck Go, a privacy-themed tool,<sup>28</sup> has nearly tripled its traffic since June 2013.<sup>29</sup> Thus, internet users are motivated to find ways to confidentially utilize the many tools and resources available online, and in doing so simultaneously exercise their rights to privacy, access to information, and freedom of expression.

2.3. Restricting internet users to identified expression will harm the internet economy, one of the most vibrant and fastest-growing sectors in the world. Forums can achieve greater adoption of their platform, and attract more comments on their websites, when users are allowed to post anonymously and using pseudonyms. For example, Disqus is a company that offers a commenting platform for millions of blogs and websites, and is seen by one billion monthly visitors in more than 40 languages. Based on its research,<sup>30</sup> commenters using pseudonyms, or fictitious names, post 6.5 times more than anonymous commenters, and 4.7 times more than commenters using Facebook to

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<sup>21</sup> Alexa. *Site Overview: twitter.com*. Accessed 1 June 2014, <http://www.alexa.com/siteinfo/twitter.com>

<sup>22</sup> See Twitter account sign-up page: <https://twitter.com/signup>. Though the site asks for the user's "Full Name" to register, there is no verification of the name a registrant submits.

<sup>23</sup> Alexa. *Site Overview: reddit.com*. Accessed 1 June 2014, <http://www.alexa.com/siteinfo/reddit.com>

<sup>24</sup> See Reddit account sign-up page: <https://ssl.reddit.com/login>

<sup>25</sup> See, e.g., Reddit.com. *Reddit, forget the useless facts. What's the most useful fact you know?*. Accessed 26 May 2014, [http://www.reddit.com/r/AskReddit/comments/13xdmn/reddit\\_forget\\_the\\_useless\\_facts\\_whats\\_the\\_most](http://www.reddit.com/r/AskReddit/comments/13xdmn/reddit_forget_the_useless_facts_whats_the_most)

<sup>26</sup> See Tech in Asia. *Sina Weibo Breaks 300 Million Registered Users, Mobile Users Growing*. Accessed 26 May 2014, <http://www.techinasia.com/sina-weibo-breaks-300-million-registered-users-mobile-users-growing>

<sup>27</sup> See The Daily Dot. *Tor and the rise of anonymity networks*. Accessed 26 May 2014, <http://www.dailydot.com/technology/tor-freenet-i2p-anonymous-network>

<sup>28</sup> <https://duckduckgo.com/privacy>

<sup>29</sup> <https://duckduckgo.com/traffic.html>

<sup>30</sup> <http://disqus.com/about>



login.<sup>31</sup> According to the company, “the most important contributors online are those using pseudonyms,” which are “nearly essential because they allow people to be expressive, and appropriately so.”<sup>32</sup> Therefore, regulations banning pseudonymous comments may result in fewer and less expressive comments. This quantitative and qualitative research shows that platforms supporting concealed identities enable greater realization of the fundamental right to free expression online.

2.4. Imposition of liability for user-generated content can result in high costs to companies, deterring innovation. A closer look at China’s Weibo shows the economic cost of imposing liability on intermediaries for user-generated content.

2.5. In the filing to the U.S. Securities and Exchange Commission, before its April 2014 Initial Public Offering (IPO) in the U.S., Weibo summarized the risks it faces related to censorship: “Regulation and censorship of information disseminated over the internet in China may adversely affect our business and subject us to liability for information displayed on our platform.”<sup>33</sup>

2.6. Over the past two years, the number of posts on Weibo may have fallen as much as 70 percent, largely as a result of increased government restrictions on expression.<sup>34</sup> Among a sample group of 1.6 million users, researchers found a dramatic drop in the number of monthly posts beginning in March 2012. That month, the government mandated a real-name policy on Weibo, forcing users to login through their real names. The government also heavily restricted rumors of a government coup, forcing the platform to shut down comments for three days that month.<sup>35</sup>

2.7. Weibo referred to this incident in its filing to the SEC: “Although we attempt to monitor the content posted by users on our platform, we are not able to effectively control or restrict content (including comments as well as pictures, videos and other multimedia content) generated or placed on our platform by our users. In March 2012,

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<sup>31</sup> See Disqus. *Pseudonyms*. Accessed 27 May 2014, <http://blog.disqus.com/post/15638234811/pseudonyms>. This data, from a 2012 report, is based on a sample size of more than 60 million users and nearly 500 million comments.

<sup>32</sup> See Disqus. Research: Pseudonyms, at <http://disqus.com/research/pseudonyms>

<sup>33</sup> Securities and Exchange Commission. Form F-1. “Weibo Corporation.” Filed 14 March 2014. Available at

<http://www.sec.gov/Archives/edgar/data/1595761/000119312514100237/d652805df1.htm>

<sup>34</sup> The Telegraph. *China kills off discussion on Weibo after internet crackdown*. Accessed 2 June 2014, <http://www.telegraph.co.uk/news/worldnews/asia/china/10608245/China-kills-off-discussion-on-Weibo-after-internet-crackdown.html>

<sup>35</sup> The Telegraph. *China kills off discussion on Weibo after internet crackdown*. Accessed 2 June 2014, <http://www.telegraph.co.uk/news/worldnews/asia/china/10608245/China-kills-off-discussion-on-Weibo-after-internet-crackdown.html>

we had to disable the Comment feature on our platform for three days to clean up feeds related to certain rumors."<sup>36</sup>

2.8. Weibo suffers at least two forms of direct economic costs stemming from the liability that the Chinese government imposes on its user-generated content.<sup>37</sup> First, in order to comply with Chinese law, Weibo is forced to employ censors. These employees, which may total in the thousands, are tasked with preventing and deleting user-generated content.<sup>38</sup> Second, the risks of government censorship deter international investors. Weibo's IPO was widely seen as generating less money than the company expected, in part due to investor concerns over government censorship and the imposition of intermediary liability.<sup>39</sup>

2.9. From this study, we posit that real name policies and requirements on companies to prevent certain types of expression in user-generated content stand in opposition to the values that enabled the internet to become an innovative and beneficial force in the global economy.

### **3. Real name policies restrict expression, and do not reduce inflammatory or offensive speech, or increase the diversity of opinions expressed.**

3.1. Real name policies often fail to meaningfully improve comments. In the Republic of Korea, a real-name policy was mandated by the government in 2007. The rule required users of websites with over 100,000 members "to input their resident registration or credit card numbers so they act more responsibly when posting messages."<sup>40</sup> The system was found to be ineffective at preventing "abusive" comments, with only a 0.9 percent decrease after one year. Further analysis of South Korea's real name policy found that "the policy actually increased the frequency of expletives in comments for some user demographics."<sup>41</sup> The most active users, who posted 11-16+ comments in the period studied, did not alter their behavior much once the policy was

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<sup>36</sup> See ProPublica. *Weibo IPO Reveals a Company Struggling With Censorship*. Accessed 27 May 2014, <http://www.propublica.org/article/weibo-ipo-reveals-a-company-struggling-with-censorship>

<sup>37</sup> See Wired, *Costs of Censorship Haunt 'Chinese Twitter' IPO*. Accessed 27 May 2014, <http://www.wired.com/2014/04/weibo-ipo-cost-of-oppression>

<sup>38</sup> *Id.*

<sup>39</sup> International Business Times. *Weibo Sells Fewer Shares Than Expected In IPO As Social Media Fatigue And Censorship Cut Demand*. Accessed 27 May 2014, <http://www.ibtimes.com/weibo-sells-fewer-shares-expected-ipo-social-media-fatigue-censorship-cut-demand-1573243>

<sup>40</sup> The Chosun Ilbo. *Real-Name Online Registration to Be Scrapped*. Accessed 27 May 2014, [http://english.chosun.com/site/data/html\\_dir/2011/12/30/2011123001526.html](http://english.chosun.com/site/data/html_dir/2011/12/30/2011123001526.html).

<sup>41</sup> TechCrunch. *Surprisingly Good Evidence That Real Name Policies Fail To Improve Comments*. Accessed 28 May 2014, <http://techcrunch.com/2012/07/29/surprisingly-good-evidence-that-real-name-policies-fail-to-improve-comments>



put into effect and even posted more expletives.<sup>42</sup> Additionally, the policy also potentially discriminated against Korea's domestic internet companies: users sought alternative, international platforms like Twitter that still allowed anonymous and pseudonymous comments.<sup>43</sup>

3.2. Rather than preventing speech, platforms can further the goals of free expression and the open interchange of ideas by facilitating immediate, responsive comments and counterspeech. In the era of traditional mass media, a relatively few number of media outlets controlled the gateway to the public sphere. Groups traditionally lacking access to the mass media may not have had a mouthpiece to respond to public criticism. Accordingly, many countries protected a "right of reply."<sup>44</sup> While this type of regulation may not be entirely applicable to the internet era, where more individuals have access to media,<sup>45</sup> encouraging replies and other "counterspeech" is a better approach than censorship and prior restraint. As Special Rapporteur Frank La Rue recommends, the response to inflammatory speech is not to pretend it does not exist, but rather to increase the number and diversity of voices participating in public discourse.<sup>46</sup>

3.3. Indeed, counterspeech is a better deterrent to defamatory and inflammatory expression than censorship. A case study from Kenya illustrates the power of counterspeech. During the recent election, online expression was closely monitored for speakers urging violence. Twitter is a popular platform in Kenya, and facilitates direct counterspeech very well.<sup>47</sup> Users who posted inflammatory comments on Twitter were quickly countered by more moderate voices, and some users even apologized for their inflammatory comments.<sup>48</sup>

3.4. By increasing the diversity of speakers and comments, companies operating online will also be better able to comply with the UN Guiding Principles on Business and Human Rights.<sup>49</sup> Corporations have a duty to respect the fundamental rights to privacy and free expression, and remedy any abuses they cause or contribute to. As the Access *Telco Remedy Plan*<sup>50</sup> emphasizes, this duty is best met in consultation with affected

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<sup>42</sup> Cho, Daegon, & Kim, Soodong. *Empirical Analysis of Online Anonymity and User Behaviors: the Impact of Real Name Policy*. IEEE Computer Society, 2012. Accessed 28 May 2014, <http://www.computer.org/csdl/proceedings/hicss/2012/4525/00/06149194.pdf>

<sup>43</sup> *Id.*

<sup>44</sup> Article 19. "Right of Reply." Accessed 1 June 2014, <http://www.article19.org/pages/en/right-of-reply.html>

<sup>45</sup> European University Institute. *Media Pluralism and Diversity and Combating 'Hate Speech' in Europe*. Accessed 2 June 2014, <http://cmpf.eui.eu/events/combating-hate-speech.aspx>

<sup>46</sup> *Id.*

<sup>47</sup> See Susan Benesch on *dangerous speech and counterspeech*. Accessed 2 June 2014, [http://tagteam.harvard.edu/hub\\_feeds/2037/feed\\_items/421379](http://tagteam.harvard.edu/hub_feeds/2037/feed_items/421379)

<sup>48</sup> *Id.*

<sup>49</sup> See *UN Guiding Principles on Business and Human Rights*. Accessed 2 June 2014, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>50</sup> See Access. *Forgotten Pillar: Telco Remedy Plan*. Accessed 2 June 2014,

communities. If forced to identify themselves, affected or at-risk communities may not express themselves and air complaints on corporate forums or news media.

#### **4. Conclusion**

4.1. Both in international law and common law jurisprudence, the right to anonymous expression has been deeply linked with the fundamental rights to privacy and freedom of expression. Yet, some countries have mandated identification of internet users, banned technical measures that conceal identities, and prosecuted websites that allow pseudonymous speech. Evidence shows these restrictions threaten fundamental human rights, while deterring innovation and economic development in the digital sphere. Rather than persist with efforts to censor and prevent inflammatory speech, policymakers, service providers, and courts should concentrate their efforts on facilitating more speech and counterspeech, enabling more users to realize their human rights online.

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