

HOW TO HOLD SOCIAL MEDIA COMPANIES ACCOUNTABLE WITHOUT COMPROMISING: A US PERSPECTIVE

The obstacles facing plaintiffs attempting to impose liability on social media companies who provide support to terrorists are large, and the policy concerns that must be navigated in doing so are significant.³⁰⁰ However, the cost of *not* addressing this issue is far too great to even contemplate allowing the status quo to continue.³⁰¹ There are two major fronts on which changes are needed.³⁰² The first is in regard to judicial treatment of these cases.³⁰³ The second is in regard to affirmative legislative action.³⁰⁴

A. Challenging Judicial Interpretation and Considering Alternative Theories of Responsibility

In light of decisions reached so far, the best option for new plaintiffs seeking to move forward and recover against social media companies under the current law is to allege facts that clearly lay out how the provision of the services of the social media site to known FTOs and their supporters in some way proximately caused the resulting attack.³¹⁴ Only when such a suit is brought will a court finally provide a conclusive ruling on how the CDA must interact with this civil cause of action.³¹⁵ However, from both the perspective of policy and reasonableness, § 230 should not serve as a bar to liability when social media entities knowingly service terrorists.³¹⁶

The right case, brought with facts clearly showing the causal relationship between usage of the service of a social media platform and a subsequent attack, could help to reverse the tide of judicial sentiment and begin chipping away at § 230's inappropriate protection of social media companies' enabling of terrorists;

B. Legislative Changes

That said, while the action and interpretation by the judiciary may certainly play a significant role in fostering a future where social media companies are held accountable for their actions, Congress also must act, either by revising § 230 or amending the definition of material support—or both—and create a statute to address the need for responsibility on the part of social media companies in clear and unambiguous terms.³²⁴

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Anna Elisabeth Jayne Goodman (2018). When You Give a Terrorist a Twitter:
Holding Social Media Companies Liable for Their Support of Terrorism,
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