

Title: The Influence of Social Media over the Decision-Making Process

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Abstract:

Social media in general, and Twitter specifically, engender public opinion which results legal decisions in being taken different from their usual forms. The increasing speed of access to information and the abundance of social media platforms open the way to question the reliability of social news channels. There is noticeable interaction between the social media, justice systems, environmental factors, and the education level of those who are consumers of social media. The analysis of the connection between these factors sheds light on the influence of technology and social media over the decisions of judicial bodies. The insufficiency of regulations concerning social media users in general, and lawyers, judges and prosecutors may sometimes cause difficulties during legal processes.

This paper aims to answer the questions: what is the most appropriate way to provide correct information that prevents society from being provoked by misinformation? What is the most useful solution to correct information that is manipulated or misrepresented by social media? Is it possible to reverse the negative results of disinformation that is produced by popular social platforms? Should judges be responsible for unburdening conscience that causes the social unrest with the application of existent rulings?

The regulations concerning the usage of social media by lawyers, judges and prosecutors are explained in order to help to define the boundaries that should be placed on the use of social media during the litigation process. One criminal court case that became quite popular in social media is examined to demonstrate the undeniable connection between social media platforms and the work of judicial bodies. This research, therefore, seeks to provide insight into the empowerment theory of lawyers, judges and prosecutors that enables them additional rights to reduce the possibility of the influence of social media upon their decision. This paper, additionally, emphasizes the methods that should be used to

minimize the effect of the misinformation and the ways of lessening the pressure of social media on judicial independence.

Introduction

Social media in general, and Twitter specifically, influence public opinion. Social media sometimes creates a speculative perception that exerts an influence upon judicial decisions. The increasing speed of information access and the abundance of informative social media platforms open the way to question the reliability of social media news channels. In the contemporary world, 5.2 billion people use phones, more than 4.5 billion people have access to the internet, while the social media users have passed the 3.8 billion mark.¹ The increasing number of internet users places this virtual world at the center of people's daily life. This article seeks to provide insight into the empowerment theory of judges to discuss their ability to minimize the negative influence of social media upon their judicial decision. Providing additional precautions that reduce the influence of social media upon judicial bodies will diminish the social apprehensions regarding legal regulations and justice.

This paper focuses on three main arguments. First, it will briefly define social media from the legal point of view. This section aims to offer a chronology of the expansion of social media platforms. Second, it will discuss academic opinions concerning the connection between judges, courts, and their independent jurisprudential power. Focus will be on to what extent judicial bodies and social media influence each other's decision. Finally, this paper aims to analyze one court case in order to evince the influence of social media, particularly Twitter, upon the legal process and decision. It analyzes the recent court case of Mehmet Şeker,² which reflects the interaction between social media and justice. This part aims to answer two questions: How is it possible to neutralize the negative results of disinformation that are produced by social media users? Are judges responsible for unburdening the negative influence of social media upon facing the situations that creates the social unrest regarding the application of existent legal regulations? In the conclusion, this paper emphasizes the methods that can be used to minimize the effect of social disinformation and the ways to diminish the pressure of social media over judicial independence. Available methods to provide correct information to prevent society from being harmed by misinformation are discussed.

¹ John Koetsier, 'Tipping Point for Social Media' (*Forbes*, 20 February 2020) <<https://www.forbes.com/sites/johnkoetsier/2020/02/18/why-2020-is-a-critical-global-tipping-point-for-social-media/?sh=3bcc18f42fa5>> accessed 6 November 2021.

² 'Konya Bölge Adliye Mahkemesi Kadir Şeker'in Dosyasını Geri Gönderdi' (*TRT Haber*, 16 January 2021) <<https://www.trthaber.com/haber/gundem/konya-bolge-adliye-mahkemesi-kadir-sekerin-dosyasini-geri-gonderdi-547750.html>> accessed 9 June 2021.

Social Media and Related Regulations

There are various definitions for the term “social media”. The diversity of explanations ranges according to the interest area of scholars, such as finance, communication, technology, science, security, or law. The social scientists Wasserman and Faust define social network in one way: “The concept of a network emphasizes the fact that each individual has ties to other individuals, each of whom in turn is tied to a few, some, or many others, and so on. The phrase ‘social network’ refers to the set of actors and ties among them.”³ They stated this definition in 1994. However, it seems quite outdated, when considering contemporary social media companies including Twitter, Facebook, WhatsApp, Instagram, Tiktok, Snapchat, YouTube, blogs, or many others. Kaplan and Haenlein defined social media by connecting it with the World Wide Web: “Web 2.0 is a term that was first used in 2004 to describe a new way in which software developers and end-users started to utilize the World Wide Web; that is, as a platform whereby content and applications are no longer created and published by individuals, but instead are continuously modified by all users in a participatory and collaborative fashion.”⁴ Their method prefers to define the social network over the ideological and technological investment of Web 2.0, and this approach offers more broad sharing of content by internet users.⁵ Considering blogs, YouTube contents, websites, or other network platforms, this definition seems more appropriate for the present virtual world.

After the introduction of the Internet, the network system improved throughout time to the point where almost every house has access to it. The usage of the Internet with cell phones enables almost everyone to enter into this newly established virtual world regardless of their age, region, ethnicity, or language. It can be confidently stated that social media addiction has become an indispensable part of the generation between the ages of eighteen and forty-five. Research concerning the social media preferences among various generations clarifies that although baby boomers (1944-1964) and Generation X (1965-1980) mainly prefer to use Facebook, Generations Y (1981-1999) and Z (2000-2020) mostly prefer to use Instagram as a social media platform.⁶ The findings also demonstrate that although Generation Y uses social media for research and organizational purposes, Generation X mainly uses it for

³ Stanley Wasserman and Katherine Faust, *Social Network Analysis Methods and Applications* (Cambridge University Press 1994) 9.

⁴ Andreas M. Kaplan and Michael Haenlein, ‘Users of the World, Unite! The Challenges and Opportunities of Social Media’ (2010) 53 (1) *Business Horizons* 60-61.

⁵ Z. Beril Akıncı Vural and Mikail Bat, ‘Social Media as a New Communication Environment: A Research on Ege University Faculty of Communication’ (2020) 20 (5) *Journal of Yaşar University* 3354.

⁶ Aylin Tutgun Ünal and Levent Deniz, ‘Sosyal Medya Kuşaklarının Sosyal Medya Kullanım Seviyeleri ve Tercihleri’ (2020) 15 (22) *Uluslararası Toplum Araştırmaları Dergisi* 1296-1298.

communication purposes. However, all generations use social media for entertainment and content sharing. Although users prefer to use social media for different purposes, communication with social media is considered definitely different from face-to-face communication experiences.

The Internet provides countless advantages and disadvantages to its users. The one-way communication style of traditional media does not enable the audiences either to criticize or examine the authenticity and reliability of the information presented. On the other hand, social media platforms offer easy access to recent news and its users can immediately express their reactions and opinions through their posts. The social media channels also permit its users to blog in order to enable them to discuss and share their opinions freely, which is the most influential effect of the Internet. However, the information posted on the Internet might be subject to manipulation, exploitation, and defacement by social media users in a prompt way with the intention of obtaining commercial earning, gaining popularity or drawing attention.

Moreover, the reliability of information posted on the Internet is questionable and debatable. For instance, the majority of people start to find the answer by searching on Google. These Internet users usually do not consider the type of research algorithm search engines or Google apply. First three or four lines of the research results are mainly reserved by either the most popular websites or websites which get more advertisements. After that, the data are listed according to their popularity. At this point, the question needs to be asked: to what extent is internet information reliable? Simply put, the accuracy of information on the Internet is not equal to its popularity, because history evidences that particular popular ideas were eventually considered incorrect.

The introduction of social media platforms has also influenced the concept of privacy, its definition, its policies, and its legal borders. The violation of users' rights, the threats of individual interests, or exceeding permissible privacy borders throughout social media platforms are other issues raised through the use of social media. Recently, identifying the border of private space in virtual world and on cyber social platforms has emerged an insurmountable issue that needs more clarification in the area of law. The protection of personal information and private space in virtual world have also become a security problem for the countries during the policymaking process.⁷ Sarikakis and Winter analyze the connection between the social media users' concept of privacy and their response to challenge of privacy: "The vast number of users and the publicness of 'their' information pose new challenges to privacy and, thus, social media

⁷ Wafa Ben-Hassine, 'Government Policy for the Internet Must Be Rights-Based and User-Cenred' *United Nations* <<https://www.un.org/en/chronicle/article/government-policy-internet-must-be-rights-based-and-user-centred>> accessed 20 June 2021.

usage actively shapes and challenges notions of privacy.”⁸ The policy-makers and lawmakers recently address the area of privacy issues arising from digital activities which include consumer data privacy, website privacy policies, personal and health information obtained by Internet service providers, digital marketing of particular products, employee email monitoring or privacy of online book download. In February 2020, Britain introduced new regulations that give the government more responsibility to regulate or control internet content of social platforms including Facebook, YouTube, Twitter, or other internet companies.⁹ For instance, California State enacted regulations concerning the privacy issues which states:

“Expands the consumer data privacy laws. Permits consumers to: (1) prevent businesses from sharing personal information; (2) correct inaccurate personal information; and (3) limit businesses’ use of “sensitive personal information”-including precise geolocation; race; ethnicity; religion; genetic data; private communications; sexual orientation; and specified health information. Establishes California Privacy Protection Agency to additionally enforce and implement consumer privacy laws and impose fines. Changes criteria for which businesses must comply with laws. Prohibits businesses’ retention of personal information for longer than reasonably necessary. Triples maximum penalties for violations concerning consumers under age 16 authorizes civil penalties for theft or consumer login information, as specified.”¹⁰

The insufficiency of regulations and security measures concerning digitalized information and their internet-based storage result in privacy problems even in state-run governmental websites.¹¹ Governments pay attention to protect the data as a national security issue, and to advance cybersecurity or cybercrime laws.¹² The governmental initiations in

⁸ Katherine Sarikakis and Lisa Winter, ‘Social Media Users’ Legal Consciousness about Privacy’ (2017) 3 (1) *Social Media and Society* 3 <<https://journals.sagepub.com/doi/pdf/10.1177/2056305117695325>> accessed 29 February 2021.

⁹ Adam Satariano, ‘Britain to Create Regulator for Internet Content’ (*The New York Times*, 2 February 2020) < <https://www.nytimes.com/2020/02/12/technology/britain-internet-regulator.html> > accessed 27 April 2021.

¹⁰ California Consumer Privacy Rights Act (CPRA), *Proposition 24*, <<https://www.ncsl.org/research/telecommunications-and-information-technology/state-laws-related-to-internet-privacy.aspx> > accessed 20 June 2021.

¹¹ Malik Aslanyürek, ‘Internet and Social Network Users’ Opinions and Awareness Regarding Internet Security and Online Privacy’ (2016) 3 (1) *Maltepe University Communication Faculty Journal* 91.

¹² Ben-Hassine (n 7)

Turkey aim to effectively secure the data and stop using the information for the human rights violations.¹³

In social media platforms, users' individual reactions can only be made with a single click, a "like," or sharing a post which supports the idea of the user.¹⁴ As people have repeatedly seen, a user of social media shares a particular post without questioning or investigating the authenticity of the information as will be seen in the analysed court case. The only aim of the user is to increase her/his popularity or to keep up with the fashion.¹⁵ Because social media is considered as a virtual world, the rulings or regulations of websites are mainly determined according to the policies of social network companies.¹⁶ Since the governmental regulations concerning social media have only recently been introduced in this area, it is observable that false information or incorrect contents might be shared in many websites without restriction¹⁷. The most influential examples of this behaviour include posting a different/unrelated/old picture or "photoshopping" over the real picture related to trend topics of Twitter in order to convince the users.¹⁸ The unethical manipulation of a photo is mainly done in a way that changes

¹³ "The basic principles that should be taken as basis in the studies to be carried out to ensure national cyber security are as follows: 1. Protection of fundamental human rights and freedoms guaranteed by international conventions; 2. Compliance with the requirements of the democratic social order; 3. Determining the measures to be taken in accordance with the Principle of Proportionality; 4. Adopting an inclusive approach that will ensure the participation of all stakeholders in decision-making processes; 5. Adopting a holistic approach that addresses cyber security with its legal, technical, administrative, economic, political and social dimensions; 6. Establishing a balance between security and usability in the solutions to be developed..." Refer to Mustafa Ünver, Cafer Canbay and Ayşe Gül Mirzaoğlu, *Siber Güvenliğin Sağlanması; Türkiye'deki Mevcut Durum ve Alınması Gereken Tedbirler* (BTİK, 2011) 23.

¹⁴ Mehmet Emin Babacan, 'Sosyal Medya Sonrası Yeni Toplumsal Hareketler' (2014) 4 (7) *Birey ve Toplum* 143.

¹⁵ Babacan (n 14) 143.

¹⁶ Tijana Milosevic, 'Social Media Companies' Cyberbullying Policies' (2016) 10 *International Journal of Communication* 5164-5166.

¹⁷ Alessio Sardo, 'Categories, Balancing, and Fake News: The Jurisprudence of the European Court of Human Rights' (2020) 33 (2) *Canadian Journal of Law & Jurisprudence* 445-448.

¹⁸ The English translation of the text states: "It is not possible to instantly determine whether the news circulating in the social media, which is so effective, is true or not, and to show the correct information to the masses reached by the news. Aside from the fact that most of the news in question is difficult to prove, it is also very difficult to stop the masses or to develop healthy communication with them after their actions. It has been claimed that around 5 million "tweets" containing false information were sent in the first week of the events (worldbulletin.net). The Gezi Park protests created a huge amount of information pollution and disinformation in the public, with many dubious and completely false news reaching large masses through social media." (Translated by me.) Refer to Babacan (n 14) 137; Veysel Eren and Abdullah Aydın, 'Role of Social Media Creating Public Opinion and Possible Risks' (2014) 16 (1) *KMÜ Sosyal ve Ekonomik Araştırmalar Dergisi* 203.

its meaning, misleads viewers, or gets the more attention.¹⁹ A relevant example is that al-Qaeda leader Osama bin Laden was killed by American forces in May 2011, and American administration refused to release photographs of the dead body. However, various internet pages released his photoshopped pictures positioning his death in different contexts than the original.²⁰ In January 2014, for example, Narciso Contreas, who is Pulitzer winning-photographer, was fired because he digitally removed an object from one of his widely distributed photographs of the Syrian civil war.²¹ Therefore, the intentionally fabricated and manufactured data might be easily shared by millions of people within second and changed the opinion of audience.

Implementation of Regulations concerning Social Media Users

Governmental regulations regarding the Internet have begun to be shaped by state lawmakers according to the changing circumstances; some security restrictions were imposed concerning the privacy of personal data. Some governments have gradually started to adapt and reform their legal systems in order to protect social justice.²² For example, in 2003, United Kingdom introduced the Privacy and Electronic Communications (EC Directive) Regulations which sets out specific privacy rights on electronic communications.²³ Another related example is that seven states of United States adopted resolutions which restrict internet service providers from using customers information or acting discriminately during the delivery of online data.²⁴ The last decade or the contemporary world witnessed court cases in which the social post of the person is used as evidence, or the social media platform is considered as

¹⁹ Stephanie Coffaney, 'Photo Manipulation in the Media' (2011) <<https://core.ac.uk/download/pdf/19153916.pdf>> accessed 1 November 2021.

²⁰ David M. Higgins and Marion G. Müller, 'Picturing the Death of Osama bin Laden: Political Iconoclasm in The Digital Age' in Anabel Ternes (ed), *Communication: Breakdowns and Breakthroughs* (Brill, 2019) 71-84; Amelia Hill, 'Osama bin Laden Corpse Photo is Fake' (*The Guardian*, 2 May 2011) <<https://www.theguardian.com/world/2011/may/02/osama-bin-laden-photo-fake>> accessed 27 April 2021.

²¹ Cuihua Shen and Mona Kasra, 'Fake Images: The Effects of Source, Intermediary, and Digital Media Literacy on Contextual Assessment of Image Credibility Online' (2019) 21 (2) *New Media & Society* 439; 'Award Winning Photographer Dumped for Altering Single Syria Image' (*The Guardian*, 23 January 2014) <<https://www.theguardian.com/media/2014/jan/23/photographer-dumped-altering-syria-image>> accessed 27 April 2021.

²² Tim Stevens, 'Global Cybersecurity: New Directions in Theory and Methods' (2018) 6 (2) *Politics and Governance* 1-4.

²³ 'What Are PECR?' *Information Commissioner's Office* <<https://ico.org.uk/for-organisations/guide-to-pecr/what-are-pecr/>> accessed 20 June 2021.

²⁴ Heather Morton, 'Net Neutrality 2021 Legislation' *National Conference on State Legislatures*, 1.20.2021 <<https://www.ncsl.org/research/telecommunications-and-information-technology/net-neutrality-2021-legislation.aspx>> accessed 20 June 2021.

a place of crime.²⁵ The former U.S. President Donald Trump's account was permanently closed, and his tweets were blocked because of connecting his messages with supporting rioters who stormed the US Capital.²⁶ These examples show that the legal systems of governments have paid attention to develop new provisions regarding the digital and technological enhancements.

In addition to regulations focusing on the content of internet or digital platforms, the governmental restrictions and regulations concerning the users' internet activities were also introduced in order to protect the balance between digital companies and its users. The status of legal professionals including lawyers, judges, or prosecutors in social media platforms is also paid attention by the governments and researchers. Therefore, social studies have been conducted concerning the involvement of legal professionals in social media. The Bangalore Principles of Judicial Conduct offers important analysis and intends to establish international standards for "ethical standard of judges".²⁷ It pays attention to six fundamental values: "independence, impartiality, integrity, propriety, equality, competence and diligence."²⁸ The principles were adopted by the United Nations Economic and Social Council, approved by common law countries, and used as a model when reviewing regulations concerning ethical conduct of the members of the judiciary.²⁹ As all of us know, the judge gives the decision in the litigation process of the Supreme Courts. Since independent, competent, and objective judicial body is an essential prerequisite to enable judges to complete duties given by the constitutions and laws, the Bangalore Principles aim to establish standards for ethical conduct of judges. Therefore, the Bangalore Principles have systematized some basic regulations for the jurisprudential process in order to ensure the independence and impartiality of the judiciary. The first principle states:

"1.1:A judge shall exercise the judicial function independently on the basis of the judge's assessment of a fact and in accordance with a conscientious understanding

²⁵ Güliz Uluç and Bilal Süslü, 'Social Media Law with the Examples of Judicial Decisions' (2016) 8 (17) Mehmet Akif Ersoy Üniversitesi Sosyal Bilimler Enstitüsü Dergisi 343-344.

²⁶ Cody Godwin, 'Trump Social Media: Twitter Suspends Account Sharing Ex-President's Posts' (*BBC News*, 7 May 2021) <<https://www.bbc.com/news/technology-57018148>> accessed, 25 May 2021.

²⁷ *The Bangalore Principles of Judicial Conduct* (Vienna: United Nations, 2018), 8.

²⁸ 'The Bangalore Principles of Judicial Conduct' *The Judicial Integrity Group* <<https://www.judicialintegritygroup.org/jig-principles>> accessed 25 May 2021.

²⁹ *The Bangalore Principles* (n 27) 3; 'The Bangalore Principles of Judicial Conduct 2002' *United Nations*, 10, 11 <https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf?fbclid=IwAR0Ui02y8sStLyCd-67QoS6uZOyIidJVQwoVHXAR89ETTLXzSIBE58QOZCA> accessed 26 May 2021.

of the law, free of any extraneous influences, inducements, pressures, threats, or interference, direct or indirect, from any quarter or for any reason.”³⁰

A judge is required to be independent during the litigation process both its individual and institutional aspects. Since a judge also has to decide independently from any disputed parties, pressuring the judge through social media channels is incompatible with the regulations.³¹ As the majority of social media users do not have enough legal education or information, their comments or opinions usually contradict the legal framework. If the judge is suppressed by the demands or pressures of social media, the result/decision undoubtedly leads to legal confusion among the civil society which obtain information of cases throughout internet.

The second article of the Bangalore Principles centers on the objectivity and it states:

“A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute that the judge has to adjudicate.”³²

The impartiality is the indispensable part of an appropriate judicial performance. Impartiality applies not only to the given decisions, but also to the legal process in which the decision is made. Analysis of the principle according to the ethical values shows that the judge performs his duty without the intervention of prejudice and favouritism. The behaviour of the judge whether inside or outside of the court should strengthen and increase the confidence of the public, lawyers, and litigants towards the impartiality of the judge and judiciary. The judge also should avoid making any comments on social media platforms which might affect the outcome of the case or undermining the impartiality of the litigation process.

The international guiding principles related to social media usage were written regarding the judiciary members (especially for prosecutors, judges, and lawyers) in order to improve their attitudes and behaviours on an ethical basis.³³ Analysis of the principles strongly clarify that the

³⁰ *The Bangalore Principles* (n 27) 8.

³¹ İnanç İştin, ‘The Independence and Impartiality of the Judiciary’ (2014) 13 (2) *Gaziantep University of Journal of Social Sciences* 291.

³² *The Bangalore Principles* (n 27) 9.

³³ The English translation of the text states: “The moral norms that are practiced by the professional obligations of the members of the judiciary have been transformed into some ethical codes, which are considered as international documents. These international ethical codes are formulated in the form of declarations, recommendations, and opinions. Ethical coding carried out in this way can be listed as follows: • Bangalore Statement of Judicial Ethics 2003; • Recommendation 12 of the Committee of Ministers of the Council of Europe (2010) to member states on the independence, effectiveness,

decision of the judge needs to be impartial in order to obtain public confidence. Principle 2.4 states:

A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.³⁴

Expression of personal feelings, thoughts, or opinions concerning the case before them in public places is not considered an appropriate behaviour for judges since it damages the impartiality of the litigation process.³⁵ However, this does not mean that a judge should adjudicate each case without considering assumptions, social values, or his opinions. After all, the decision-making mechanism is not a robot, but a human being living in a society with his own emotions, thoughts, and feelings. The Bangalore Principles take into consideration the human aspects of the judges and emphasize that their attitudes in social areas need to be in harmony with the ethical standards and impartiality of the jurisprudential process.³⁶ Although the jurisprudential process shows variety according to the circumstances of the countries, the six fundamental value aims to standardize the ethical aspect of the prosecutors, judges, and lawyers. It is clear from the increasing number of social media users that legal professionals cannot be isolated from social media. Recently, public opinions among the judges and lawyers however have been shaped according to the judges' and lawyers' posts, comments, shares, friends, likes, or dislikes in social media.³⁷ More than this, the judges or lawyers have started to face accusations of partiality because of their internet

and responsibilities of judges; • Magna Carta of Judges; • Opinion No. 3 of the Advisory Council of European Judges, Advisory Council of Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Principles and Rules Governing the Professional Conduct of Judges, in particular ethics, improper behavior, and impartiality; • Opinion No. 1 brought to the attention of the Committee of Ministers of the Council of Europe on the standards of judicial independence and non-removal of judges by the Consultative Council of European Judges; • European Charter on Legislation Regarding Judges; • United Nations Basic Principles on the Independence of the Judiciary..." Refer to Muharrem Kılıç, *Yargı Adaleti ve Etiği Açısından Yargı Mensuplarının Sosyal Medya Kullanımı* (Seta Yayıncılık 2021) 10.

³⁴ *The Bangalore Principles* (n 27) 10.

³⁵ Mahmut Şen, 'The Question of The Protection of Impartiality of Judges in Social Media Network' (2014) 18 (3) Gazi Üniversitesi Hukuk Fakültesi Dergisi 648.

³⁶ *Non-Binding Guidelines on The Use of Social Media by Judges* (United Nations Office on Drugs and Crime), 2<https://www.unodc.org/res/ji/import/international_standards/social_media_guidelines/social_media_guidelines_final.pdf> accessed 27 May 2021.

³⁷ Kılıç (n 33) 30-31; Dimitra Blitsa, Ioannis Papatthanasiou and Maria Salmanli, 'Judges & Social Media: Managing the Risks' (2015) Themis Competition 1-7.

posts.³⁸ The disputed debates and manipulative reactions of social media users against judges sometimes negatively affect the impartiality and propriety of the justice.³⁹

Research concerning the effects of social media usage by judges and lawyers was conducted by the international bar associations among legal professionals (prosecutors, judges, and lawyers) from sixty countries in 2012.⁴⁰ Forty percent of the participants (prosecutors, judges, and lawyers) stated that the behaviour of judges in online platforms negatively affects the public opinion regarding the independence and impartiality of the judiciary. The study also claimed that the behaviour of lawyers in online platforms is not perceived negatively by the society.⁴¹ Only fifteen percent of the respondents (including lawyers and judges) stated that the social media activities of lawyers negatively affect the public perception concerning the legal profession.⁴² There is a substantial difference within opinions concerning the influence of social media usage by judges and lawyers. The results might be connected with the social assumption that a lawyer takes advantage of every opportunity in order to protect and defend his client without distinguishing right or wrong. On the other hand, a judge as being a final decision-making authority is obliged to listen objectively to both sides of the case and be an impartial decision-maker. The judges need to be expressly cautious circumspect in order to participate responsibly in social media activities.⁴³ The accusations related to partial decision or the presumptions concerning the pressure of social media upon the court might influence both sides of the case and increase social sensitivity concerning the case. In the contemporary world, almost all countries attempt to create and publish ethical values concerning social media usage throughout the suggestions of official ethical committees or judicial authorities.⁴⁴

The Influence of Social Media over the Jurisprudential Process

There are two fundamental questions concerning the connection between social media and jurisprudential procedure. What is the effect of social media users on the litigation process? Do the internet users act with

³⁸ *Non-Binding Guidelines* (n 36) 2-3.

³⁹ *ibid* 2.

⁴⁰ Şen (n 35) 644.

⁴¹ *ibid*.

⁴² *ibid*.

⁴³ Keith R. Fisher, 'Judicial Ethics in a World of Social Media' in Anja Schoeller-Schletter (ed), *Impartiality of Judges and Social Media; Approaches, Regulations, and Results* 7

<[https://www.kas.de/documents/265308/265357/Impartiality+of+Judges+and+Social+Media.pdf/eb313aed-88ca-c677-4231-](https://www.kas.de/documents/265308/265357/Impartiality+of+Judges+and+Social+Media.pdf/eb313aed-88ca-c677-4231-d84c02ee914c?version=1.0&t=1591861554477)

[d84c02ee914c?version=1.0&t=1591861554477](https://www.kas.de/documents/265308/265357/Impartiality+of+Judges+and+Social+Media.pdf/eb313aed-88ca-c677-4231-d84c02ee914c?version=1.0&t=1591861554477)> accessed 27 May 2021.

⁴⁴ Kılıç (n 33) 20.

a legal awareness or popularised ideas? Although it is not the most common social media platform, Twitter has obtained a reputation regarding the fast and immediate circulation of the events and information.⁴⁵ Twitter, an online platform which every individual has the right to share his opinions, pictures, videos, comments and so on, increases the speed of sharing information or a particular idea. For example, the world learned about the Beirut explosion within seconds in August 2020 and videos of the blast immediately posted on social media.⁴⁶ Twitter users expressed their condolence and wishes with the hashtag of #prayforbeirut.⁴⁷ Similarly, Americans organized under the hashtag of #blacklivesmatter in order to express their ideas regarding the death of George Floyd who was African American man murdered by a white ex-police officer in Minneapolis in May 2020.⁴⁸ Twitter users also started campaigns in order to protest the governmental measures against pandemic restrictions in so many countries including Austria, Britain, Finland, Germany, Romania, Switzerland, Slovenia, and the United States.⁴⁹ The hashtags may get supports both international and domestic users of Twitter because there are in effect no country borders which limit the distribution or sharing of a post.

The responses or reactions of the social media users in various internet platforms regarding the cases might be positive, negative, supportive, rejective, or affirmative. The question which should be asked at this point is that: Are the views of social media users over the issue correct and trustable, or wrong and speculative? The users of Twitter in Turkey occasionally pay attention to the court cases and share their unobjective and biased opinions concerning the defendant and plaintiff of the case. The criminal case of Musa Orhan is a good example of the general public posting opinions about a criminal case.⁵⁰ The defendant Orhan, an official security member, was living in Siirt, Turkey when a

⁴⁵ Koetsier (n 1).

⁴⁶ Nazih Osseiran and Isabel Coles, 'Beirut Explosion: What Happened in Lebanon nd Everything Else We Know' (*Wall Street Journal*, 10 December 2020) <<https://www.wsj.com/articles/beirut-explosion-what-happened-in-lebanon-and-everything-else-you-need-to-know-11596590426>> accessed 27 May 2021.

⁴⁷ <https://twitter.com/hashtag/prayforbeirut?lang=en>

⁴⁸ Mary Blankenship and Richard V. Reeves, 'From The George Floyd Moment to A Black Lives Matter Movement, in Tweets' (*Brookings*, 10 July 2020) <<https://www.brookings.edu/blog/up-front/2020/07/10/from-the-george-floyd-moment-to-a-black-lives-matter-movement-in-tweets/>> accessed 27 May 2020.

⁴⁹ Julie MacCarthy, 'Protesters Across Europe Clash with Police Over Covid -19 Lockdowns' (*NRP*, 21 March 2021) <<https://www.npr.org/2021/03/21/979653125/protesters-across-europe-clash-with-police-over-covid-19-lockdowns>> accessed 27 May 2021; Paolo Gerbaudo, 'The Pandemic Crowd: Protest in The Time of Covid-19' (2020) 73 (2) *Journal of International Affairs* 61.

⁵⁰ Turan Koyuncu and Mehmet Yücel Durak, 'Musa Orhan'ın Yargılanmasına Başlandı' (*Hürriyet*, 16 October 2020) <<https://www.hurriyet.com.tr/gundem/musa-orhanin-yargilanmasina-baslandi-41638059>> accessed 9 June 2021.

criminal court case was opened against him as a result of suspicious female murder. Orhan was detained on suspicion of murder but was able to prove that he was in another city at the time of the girl's death. The case became viral in Twitter and the users supported his arrest titling him a murderer. Since the hashtag #MusaOrhanTutuklansin (#arrestMusaOrhan) obtained popularity amongst Twitter users, the judicial bodies have taken cognizance of the social platform and tried to minimize the social tension.⁵¹ The chief public prosecutor's office of Siirt, dependent on The Ministry of Justice published a written notice which informed the society about the arrestment request of Orhan.⁵² The lawyers in the case shared related documents and evidence with the media in order to inform the society. The court did not approve the arrestment request regarding the evidence which proves his innocence and he was released on conditions of trial without arrest.⁵³ However, the decision of the official judge failed to satisfy the expectations of Twitter users and the case has not finalised yet.

Another relevant example is the case of Halil Sezai who beat his neighbour. Sezai is forty-one years old Turkish singer, actor, and movie producer living in Tuzla, Turkey.⁵⁴ On the day of the event, Sezai, who was inebriated, visited his 63 years old neighbour with a stick in one hand and flowers in the other hand and started to beat his elder neighbour. When the case came to the court, he was released on conditions of trial without arrest by the judge.⁵⁵ Although Sezai rejected the accusations related to physical abuse of his elder neighbour, the videos taken from security cameras showed that the incident happened, and he harshly beat his neighbour. When the videos of the beating were distributed on social media platforms, the case caught the attention of society and Twitter users started the hashtag #halilsezaitutuklansin (#arresthalilsezai).⁵⁶ After the videos became viral on the social media platforms, the prosecutor's office referred the case to the court of peace on duty with a request of his arrestment (which is the requisition of Twitter users). After the approval of that request, he was jailed pending trial because of his character (His previous criminal record provided evidence for his prone to violence and participation into act of violence). At the final session of the trial, Sezai was sentenced to one year eleven months in prison.⁵⁷ After 45 days in

⁵¹ https://twitter.com/hashtag/MusaOrhanTutuklansin?src=hashtag_click.

⁵² https://twitter.com/adalet_bakanlik/status/1296039125523533828/photo/1.

⁵³ 'Musa Orhan Tahliye Edilmişti! Kararın Gereçesi Açıklandı' (*Hürriyet*, 26 August 2020) <<https://www.hurriyet.com.tr/gundem/musa-orhan-tahliye-edilmisti-kararin-gerecresi-aciklandi-41596230>> accessed 9 June 2021.

⁵⁴ Filiz Kınık Öz, 'Halil Sezai Tahliye Edildi' (*Anadolu Agency (AA)*, 30 October 2020) <<https://www.aa.com.tr/tr/turkiye/halil-sezai-tahliye-edildi/2024556>> accessed 9 June 2021.

⁵⁵ *ibid.*

⁵⁶ https://twitter.com/search?q=%23HalilSezaitutuklansin&src=typed_query.

⁵⁷ Öz (n 54).

prison, Sezai obtained provisional release and changed the imprisonment into a fine. Therefore, the participation of social media platforms in the judicial process (which request his arrestment) affected the results of the Sezai's case. In cases where social media users are seen as the target audiences, fabricated information might be easily distributed in order to manipulate reality.⁵⁸ Ironically, the mentioned situations have been described as 'social media justice' or 'twitter justice' in the social platforms.⁵⁹ The potential of Twitter and impact of hashtags in social justice might bring injustices into wider public view, which creates pressure to make perpetrators accountable and leads to challenges of power relations.⁶⁰ It is seen from the analysed cases that the reassessment request of social media users occasionally affects the final decisions of the judicial members.⁶¹ Additionally, the exemplary cases demonstrate that especially, the online comments concerning criminal cases were mainly posted without legal knowledge and education.

The Case of Kadir Şeker

The detailed examination of another court case by connecting its litigation procedure with Twitter posts will clarify the intertwining relationship between social media and justice mechanism. The analysis of the paper focuses only on Twitter and its influence over the criminal case of Kadir Şeker. The criminal case of Şeker caught both national and international attention on Twitter with the hashtag of #KadirŞekereÖzgürlük which means #freedomforkadirseker.⁶² Şeker is twenty years old, and he was studying for the university entrance exam in Konya, Turkey. Every night after completing his studies at the public library, he returned to his aunt's house by tramway. On the day of the incident, he got off the tramway and walked to the house. While passing near the park, he heard a woman's voice who experienced verbal abuse from her husband. Şeker witnessed this argument and asked the husband: 'Why are you shouting?' The husband responded with profanity, and Şeker left the location. the husband followed Şeker, and they started to fight, which ended with ethe husband being stabbed. The husband died at the hospital because of the knife wound, and the police arrested Şeker within an hour.⁶³

The criminal case instantly became popular on Twitter. However, the circulated information on Twitter was inaccurate and manipulative.

⁵⁸ Sardo (n 17) 445-448; Yakup Köseoğlu and Hamza Al, 'The Social Media as a Political Propaganda Tool' (2013) 8 (3) *Journal of Academic Inquiries* 107.

⁵⁹ Gwen Bouvier, 'Racist Call-outs and Cancel Culture on Twitter: The Limitations of the Platform's Ability to Define Issues of Social Justice' (2020) 38 *Discourse, Context & Media* 2.

⁶⁰ *ibid.*

⁶¹ Kılıç (n 33) 42.

⁶² https://twitter.com/hashtag/KadirŞekereÖzgürlük?src=hashtag_click.

⁶³ 'Konya Bölge Adliye Mahkemesi' (n 2).

The place of the crime was wrongly stated in social platforms. There was verbal abuse in the actual case, but the tweets mentioned physical violence and supported the defensive act of Şeker.⁶⁴ Twitter created a kind of social awareness about physical violence against women and launched an internet campaign for the freedom of Şeker.⁶⁵ The hashtag #KadirŞekereÖzgürlük (#FreedomforKadirŞeker) obtained enormous support without any research and information by Twitter users.⁶⁶ In my interview with Şeker's official lawyer, Mustafa Aladağ (the President of Konya Bar Association), he claimed that the Twitter campaign created an idea of Şeker's innocence.⁶⁷ Kadir and his family members started to assume that he would be released without any punishment.

The crime scene investigation was carefully carried out by the prosecution office. The counsel for the prosecution prepared its file charging deliberate murder under unjust provocation. Konya 3rd High Penal Court initially gave him life sentence by evaluating the case under the category of deliberate murder. The defence lawyer of Şeker highlighted that he acted regarding consciousness of citizenship rather than the idea of intentional killing while the lawyer of plaintiff insisted on the accusation of deliberate murder. Aladağ stated that his actions might be considered regarding the right of self-defense within panic, fear, and anxiety.⁶⁸ Aladağ made objection against the initial court decision and Konya 3rd High Penal Court decided to re-evaluate the case. After the reassessment, the court sentenced him to fifteen years in prison because of intentional killing under unjust provocation.⁶⁹ The court also paid attention to the principle of time off for good behaviour and he was sentenced to twelve years six months in prison.⁷⁰ It might be claimed that the supports of Twitter users had perceptible influence over the abatement decision of the court. Although the results of each trial have been shared with the social media, Twitter users have still continued their freedom campaign regardless of the documents and Turkish penal code. The posts of users also clarified that they believed in the false news concerning the incident and they will never be satisfied with the court's decision.

Meanwhile, an anti-Şeker campaign arose on Twitter, that claimed that Şeker was a hired killer. These users opened the hashtag #katilkadirşeker (#killerKadirşeker), and the hashtag started to catch the

⁶⁴ Göksün Gökçe Gönendermez, 'Bir Kavram Laboratuvarı Olarak Kadir Şeker Olayı' (*Birikim*, 18 December, 2020) <<https://birikimdergisi.com/guncel/10388/bir-kavram-laboratuvari-olarak-kadir-seker-olayi>> accessed 9 June 2021.

⁶⁵ *ibid.*

⁶⁶ https://twitter.com/hashtag/KadirŞekereÖzgürlük?src=hashtag_click&f=live.

⁶⁷ The interview with Mustafa Aladağ (the President of Konya Bar Association) was conducted by the author between 15:15-16:30, in Kule Plaza, 18 floor Selçuklu, Konya on 3 January 2021. The recording and files of the interview are preserved by the author.

⁶⁸ The interview (n 67).

⁶⁹ *ibid.*

⁷⁰ 'Konya Bölge Adliye Mahkemesi' (n 2).

attention of society. Supporters of this opinion, however, mainly organized on Instagram, another popular social media platform. As a result, a new case was opened against Şeker which aimed to investigate the accusations that he was a hired killer. The judge threw out the case because of lack of evidence and false information. The main reason for the second suit was the intolerable pressure of social media. Aladag stated that film companies, television and radio programs, social organizations have contacted him in order to increase the popularity of the case.⁷¹

Conclusion

A judge has to carefully examine all available evidence and listen the testimony of the witnesses. After entering the courtroom, it is essential for a judge, a prosecutor, or a lawyer only to focus on the file and minimize the external effects. If the justice of social media is accepted in the legal area, it may be possible to title criminal cases as non-criminal or the vice-versa. The mission and responsibility of a judicial body are stated by the regulations of the countries. Social media therefore does not have any place within judicial procedure. The accepted Bangalore Principles of Judicial Court require an independent judge who is free from all kinds of social pressure. However, the positive influence of social media accelerates the decision-making process. The reason for this is not to respond to social media, but to mollify the social tension and protect social stability. Although the social media platforms increase the awareness of people concerning their right and responsibilities, its influence over the judicial bodies needs to be minimalized with additional governmental regulations especially during the litigation process.

When people learn that justice is secured by relying on regulations rather than social consciousness, they can realize the division between justice and social media. This goal may be acquired by teaching people basic legal principles through various social media channels. Additionally, the judicial bodies may establish an information center for the cases that cause social tension. The society might find an opportunity to obtain first-hand correct information through this mechanism and this system ceases the negative effects of fabricated news. Establishment of an official information center for social media platforms can minimize the influence of misinformation or manipulative acts of the social media users.

Social media activism can sometimes provide justice and sometimes lead more problems at the social and judicial levels. In order provide justice in society, it is necessary to take some legal precautions related to social media at international and national platforms. In the first instance, it can be organised an international academic platform that specifically focuses on social media and its influence upon the judiciary. In this academic platform, scholars, lawyers and judges from different

⁷¹ The interview (n 67).

countries should deal with the issue from different perspectives and provide social, legal and political solutions for the functioning of judiciary independent from social media activisms. Additionally, it should be established a legal mechanism to put into effect the social, legal, and political solutions that are decided in the international platform. In the second instance, each country's judiciary system should have their own social media platform to inform society impartially, objectively, and perspicuously about controversial court cases that have social extensions. Finally, the judiciary should take into consideration societies' sensitivities before sentencing some criminals and giving a verdict.

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