Governance of New Media in Taiwan: Theoretical and Practical Perspectives

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The purpose of this article is exploring issues on new media in the governance of freedom of speech and individual privacy. The Internet is an indispensable source of accessing to information today, with the creation in various types of new media; the Internet has developed to be the broadest gate and platform of spatial knowledge to interaction, and even turns to be the formation of a far and wide public field. The emergence of many new media which breaks the original concept and rules of traditional media communication makes expression of individual speech more influence. Individuals become the participants and influencers of “freedom of speech;” however, in this interactive process, the impact is that who might inevitably lead to the perception of tort law. This paper uses qualitative methods, including text analysis, comparative method, and in-depth interviews, from the theoretical perspective of communicative rationality proposed by Jürgen Habermas as a scientific research basis of deductive approaches, combining with discourses on national governance and human rights to analyze the relevant information and data used in this article. This article hopes to build up rights and obligations of localizing knowledge, so that aspects of theories and practical evidence can interpret for the difference and integration by analysis of new media in freedom of expression to compare with that of the traditional press. Reshaping the usage of the new media rights and obligations for individuals, this article tries to offer the interpretation for implementation of human rights on freedom of speech and individual privacy in situation with difficulties and suggestions, and that will create a new way for governance with consideration toward human rights.

Keywords: Governance toward Human Rights, Communicative Rationality, Freedom of Speech, Individual Privacy, New Media

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Introduction

Human rights have gradually become a standard of viewpoint to consider governance from different governments compared with in the world; however, there is still strong inconsistency in consensus of the abstract understanding and concrete practice because of cultural differences. In order to make more implement in actual operation in issues of human rights, here are some acts having been set from the statutory level of nation to protect human rights in Taiwan (ROC), such as the “Regulations for Human Rights Protection Committee in Control Yuan” on May 19, 2000, then passed with deliberation in Legislative Yuan on March 31, 2009 enclosed by Executive Yuan on February 19, 2008, the “International Covenant on Civil and Political Rights, ICCPR,” the “International Covenant on Economic, Social and Cultural Rights, ICESCR,” and the “Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,” to follow the international standards and ensure the protection of provisions in human rights from the two conventions have legal effect in domestic. Then, to build up the awareness of the important emphasis toward human rights, on December 10, 2010, “Human Rights Advisory Committee” has been set up in the Office of the President. All above are the ways to advocate policy of human rights and toward international connection.

The problems of human rights come from public sectors, totally can be seen as an interpersonal conflict with the values presented; hence, with advance in technology, the patterns of people interaction have changed dramatically from the original state of physical reality into the virtual network situation, and people are often with the cultural characteristics of social reality and norms to the network space while interacting with others (Byam, 1998), today in addition to blogs, the emergence of many social new media, such as: Facebook, LinkedIn, Twitter, Plurk and so on, making individuals more ways that they can contact other people and share their experiences. Individual users can choose the system settings to determine their own browsing behaviors (Qualman, 2011:16-18). The development of geographical location breaks through the traditional community-based exchange network which is to transcend time and space barriers and blurs the boundaries between virtual and real (Gu, 2002). With the development of new media, gradually the social interaction models copied from web network have become an extension of the real world, languages and the topics talked about turn to be the real impact of beginning in daily life that affect others to get aware of specific knowledge of the real situation. Least in the ideological limitation of the network is to provide more freedom of speech and words to engage in a reflection on human rights issues and direction.
For the protection of “human rights,” in 1948 United Nations General Assembly adopted the “Universal Declaration of Human Rights, UDHR,” in which of Article 19, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Individuals become the participants and influencers of “freedom of speech;” in this interactive process, it is inevitable to encounter legal infringement on the perception, forcing governments to consider about the “right” of network using by people and re-think the “obligation.” From this concept, many rights of Internet using and conventions offered by non-governmental organizations, the “Internet Rights Charter” made from “Association for Progressive Communications; APC” is the most undistributed and also the most popular (APC, 2006; Chou, 2010).

The Charter to the universal declaration of human rights, based on being involved in relations of government, legal constraints and the rights of the people, there are two sub aspects of the seventh theme, “gaining the rights of access, awareness and education” and “rights of vindication from the infringement of rights” to highlight the current emphasis on individual freedom of expression which may extend to generate violations to others; the former belongs to category of rights and obligations for users, and the latter is more for protection of improper infringement produced from the system of Internet. Based on the above discussion of context, the research questions shaped are as follow:

(1) Is there any different point of view about representation from freedom of speech to illustrate the relationship between the traditional mainstream and new media? How is the difference of the distinction? (2) Between individual privacy and social control, how to define the Internet defamation? Under the framework for freedom of expression, what should individuals do to take the legal obligations? From the emergence of new media, what will it affect and construct to the control measures? (3) About the division between freedom of expression and responsibility, the popular Internet search so called “Internet lynching,” or “vigilante of the Internet,” does this meet the principles of justice? What should the government do to the balance of different conflict of rights? If freedom of speech is a manifestation of human rights, how do the human right implications of legislation on freedom of speech begin?

This paper uses qualitative methods, including text analysis, comparative method, and in-depth interviews, collecting data from different aspects to expand the scopes of discourses. The objects of analysis this article chooses and applies base on the relative articles, books, and new media; the comparision is developed from the analysis of traditional and new media; the data selection goes for the researcher to determine the most suitable people for research purposes, as purpossive sampling. The methods of
this study are from such perspectives, terminology of researches carried out throughout the main study. Such approaches of design also base on different types: complementary, single, parallel, series-type and other characteristics (Hu, 2002:278-279).

**Message Transmission: Rational Communication of Habermas**

Whether the real world or the Internet space, the communication behaviors always play a very important channel for personal interaction. Therefore, the mutual understanding in context of communication is a kind of ability bringing “inter-subject,” which involves a so-called “dialogue” concept.¹ There are two theoretical meanings: one is to compete in contemporary philosophy of mind through linguistic analysis of the agreement with the hermeneutics of historical relativism for awareness into the possibility of objective moral judgments; the other hand, it is through the medium of language, like the bridge to figure out single heart hiding behind on metaphysics and ethics in the field of ethics, carrying that on the unavoidable interaction of the current world. The meaning of communication, under the reconstruction of moral principles, its principles can be generalized and interpreted as the “practical discussion” in the process for “formation of consensus;” that is, whether it can be developed into a generalized metrical inspection process or not, it should not be only through individual’s internal experiment, but rather than discourse in practice truly, by the discussion of participants (as the status of “stakeholder”) with agreement to ensure that the norms standing for universal validity or legitimacy (Lin, 2003:402-405).

In such system for thinking, this is based on priori pragmatics to presume, making those who once want to communicate have started to the discussion being oriented in order to understand the operation of communication; necessarily, to understand the meaning of the effectiveness to shape structure in idealized conditions. That is, if the universal principle of the propositional content can be preset from the pragmatics of the deduction, then the concept of moral basis for the assumptions may be possible to achieve (Habermas, 1983:92-93), but in order to achieve the effect communication, the knowledge base of action to communicate should be consider. Under this construct, Jürgen Habermas has also made the in-depth analysis and careful criticism for positivist (Shi, 2003).

With elements of life made from Habermas’s analysis, “Labor,” “Language” and “Power,” are three indispensable elements in the world of human life; human beings access to biological resources to maintain their existence by labor; to communicate

¹ From extension of philosophy, “Dialogue” is a form of implicit for “discourse ethics” (Diskursethik) turning to the universal doctrine of ethics. Extending to conversation for one another generates the meanings of talking, discussion and debating (Böhler & Gronke, 1994:764).
through language making social interaction in order to sustain the existence; by the liberation of power to determine his/her own destiny (Yang, 1991). Corresponds to labor, language and power, Habermas developed the following three cognitive interests (Hong, 2001):

(A) “Technical Interest,” the first element for human existence is work, and in the field of work, the most typical mode of operation is “instrumental action,” instruments for action focus on technological rules, and based on empirical knowledge; (B) “Practical Interest,” the way that separating from animals in human society is the ability to communicate with symbols of language, communication and interaction in surroundings of language, the typical mode of operation is communicative action. The effectiveness of action in communication is not based on technical control, but the significance of comprehension and interaction are the common understanding of standards, practical interest in their construction of knowledge of history or interpretation of historical hermeneutical science; (C) “Emancipative Interest,” in the industrial society, there must be nations, authorities and leaders to plan, assign people about the work, wealth and goods, etc., thus the misunderstanding derived from the issue of power and ideology makes consciousness of power type of misusing, then the mass was led to domination but out of awareness for the public; however, human beings have a deep-seated interest to overcome the rigid ideology and power relations in an attempt to the liberation from the social and historical forces, this interest is “emancipatory interest.”

Habermas’s “communication theory” is understood on communicative rationality as the basis for development and to rebuild the capacity of human communication standards, expectations through enlightenment, reflection, critical approach to reach maturity, autonomy, and the liberation of communication purpose, so as to achieve the ideal “rational society” (Chen, 2003). The “ideal situation of discourse” contains an ideal type for real life, the ideal situation must be implemented in the words of life form, if people detached from the life of this ideal type, it would be difficult to imagine an ideal situation that can practice the words. This type of ideal life is to make “participation,” “independence,” “responsibility” and “equality” be fully reflected in the form of life (Huang, 1985:139).

While discussing the necessary intermediary for freedom of speech, communication media, generally is as a platform to consider. The significance of communication, especially in current society, to achieve a stable democratic voice on the equal basis is the public domain of the consensus effect. In the environment of freedom for competition, sometimes the media is as a mechanism to respond to social degree of freedom. Among the speech spaces, the public sphere builds with its importance to publicity, public sphere is the area of public life, which is characterized
by a discussion of community for public affairs, and the core is the public discourse (Hsia, 1994:29). Media is a public space to represent the effect of audio-visual. The effectness of discourse will be the results staggered with rights and conflict.

The Representation of New Media and Form of Speech

Media market is like other markets that are occupied by small groups of large companies and dominated the boss quickly. Other general requirements of ordinary people only can beg for column form editors, and each media group has its own editors to decide what kind of contents have the “values of news,” “suiting for publication,” and how to allocate the public domain area (length and transmitting time). Finally, we have freedom of speech, as preservation after editing (Ringmar, 2009:15). However, on the Internet, everyone can exchange his/her ideas with others around the world. Individuals use this new and amazing capability through blogs or other websites to express the thoughts. Showing a symbol that we live in the next revolution of media; this time, we are the media (Solove, 2011:19).

Intermediaries or known as the media......that is the mainstream media......because the emergence of social networking websites, in many circumstances......must be restructured or otherwise......can only wait......and then gradually disappear, even with the circulating advantage of managing information......so......traditional media is no exception......face the challenge from new media......must transform or integrate. (E)

Changing of media is a symbol for the transmission of information more quickly and the review mechanisms with reduction of human interference, taking publishers as examples, they are only an intermediary role, when the writer can easily deal with contents directly to readers, the role is no longer taking an important place (Qualman, 2011:142); gradually, the process of development changes so that the traditional mainstream media has a new challenge. In particular, the consideration about inspection and protection of news have become a focus of discussion (Kao, 2009:40), the distortion problem of news reports also gradually showed an evolving mainstream hegemonic considerations.

Current public sphere has changed, and many are no longer for everyone to participate in the discussion, which are replaced by networks from thousands of small discussion simultaneously. People use different ways to express themselves because they are not the spokesmen for official statement; they use more unlimited way of conversation. Private sphere of individuals gradually affects the world, and public
areas have begun to move toward privatization (Ringmar, 2009:149), even the traditional media release information from new media as their news sources (Guan, 2011).

1. Electronic Diary: The Completely Personal Perspectives Discussed in Blogs

Running for Blogs as a business activity is almost entirely a part-time, volunteer career, but the blogs seem to play an increasingly important role in public forums, the most successful blogs, there are hundreds of thousand click rate every month, and through links, getting the support from advertising and sponsors. These elites can rely on bloggers to write articles, and even turn into the strong competitors against the mainstream media (Solove, 2011:61). This development has changed a lot of interpersonal contact modes, and there has never been an ordinary person can contact so many people on Earth and exchange thoughts in the process of history (Solove, 2011:20). If we compare to traditional mainstream media and blogs further, we will find that in writing content, style, time, message filtration, quality and self-restraint, there are a lot of difference, as shown in Table 1.

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Blogs are more egalitarian than the mainstream media, and many bloggers have criticized the mainstream media to become the voice of a great place to judge the media, such activities change people’s behavior, and the most challenge is that the attitude toward problems, most individuals can only murmur with some relatives or acquaintances in the past, now they can talk loudly in their own blog by writing.

This concept is gradually in the fermentation that decentralization of power from traditional authority into the general population, but more often......if the power is transmitted through the community mechanism to everybody from the media......besides blogs......what other new forms? Is there a different interface? Is the dissemination of results the same? (G)

Although after the emergence of a large number of blogs, the influence is being diluted, the important concept is, bloggers subvert the power of traditional pyramid structure, which is not easy to be done from the mainstream media; in particular, the current popular social networking websites, which takes into the concept of relationships, its influence is even more than the effect from strangers.²

2. The Blooming Social Networking Websites

Before the advent of social networking websites, there is an interesting experiment conducted in reality by an American psychologist, Stanley Milgram in 1967, the implementation of an incredible experiment, the purpose is to identify how two strangers can be linked together even if they don’t know each other. He chose a target person in Boston; meanwhile he gave the letters to several people who were selected at random in Nebraska. These letters will be sent to Boston for the target guy,

² “MicroBlog” is another kind of scope produced between blogs and social networking websites, which is not like the blogs, it does not require too much organization of language to discourse the facts, or to take rhetoric to express feelings, the only need is a brief real-time representation (Pei, 2010:88).
but each letter can only be sent to a person the holders are familiar with. Surprisingly, letters arrive from people who were selected at random to the target in Boston, in average, letters only passed six individuals (Watts, 2003:38-40), showing a symbol of the network connection is by a series of six individuals for a person on the planet with a link with all the others, meaning that there is an invisible social network relationships, which is solidarity for extension of human knowledge and understanding of the world launched by a joint relationship. Thanks for the development of technology, people can spread the message at any time with the social networking websites, who can surf on Facebook, LinkedIn, Twitter, Plurk to update the status and then contents will be passed on immediately to everyone in one’s circle of friends, people who know this message publisher can immediately understand his/her condition. In addition, real-time social media help people to assess their personal lives and to answer the question: “What am I usually busy for?” (Qualman, 2011:53-71), social networking websites attempt to concepturize the real idea of specific social relationships, through these websites, close friends and acquaintances interconnected in the network can share each other’s files and information, so that social communities considered as friends may get such information with timeliness as the lowest cost.

New media ... should refer to intermediary for interaction with people on the Internet media, I know a lot of friends have joined Facebook, some are in MySpace, really feel some fun......but so many social networking websites, too much homogeneity......so probably only based on one selection, which could let me understood by friends......what I am doing and what they thought about it, many people have hundreds of friends...quiet a lot of numbers...... (C)

Social networking websites quickly become a global phenomenon, in addition to the above, “Orkut” in Brazil and India has a large population goes for (Kugel, 2006; Vaish, 2006); the extensive use of “Piczo” and “Nexopia” in Canada; “Passado” in Germany, Spain and Italy is widely used, and the “Bebo” is becoming very fashionable in the UK (Goo, 2006); in Japan, “Mixi,” became one of the country's most visited websites (Lewis, 2006); popular websites in China are the “Mop” and “Cuspace;” “Cyworld” in South Korea dominates the social networks (Grady, 2006).

In the world of the Internet community, traditional authority is bound to......

3 Currently, the popular websites are including “Facebook,” “MySpace,” “Xanga,” “LiveJournal,” and “Friendster” (Solove, 2011:24-26).
mean……has to give up something in the past......people who always own the power……share some to the users, consumers, viewers, etc. to obtain the rights of ownership......which way can be aware of and see a personal social network; in particular, connecting to the important people......who’s who...... (F)

Among many social networking websites, “Facebook” is turning into the most popular one, and it records every single action by words or photos. Users may think that keep every individual secret as reservations is a strange thought, but that does not mean they do not care about privacy; however, just in a different way to consider about privacy. As Bruce Schneier (2006) observed, people have will to share many kinds of information, as long as all are in control, and when “Facebook” change personal information unilaterally is disclosed as the rules, which reminds people: personal information is no longer under the control at all (Solove, 2011:170).

What I can say......if you do not want to let people around the world know something, do not put it on social media......you may only want to share with some close friends, but finally there is always the way to know what you are doing......from the posted information......maybe you do not wish the publicly......this may not be about what’s right or wrong, nor the problems involved in the commission of breaking the laws......but there is always something the author does not want to be published, and it is uncomfortable......for people if things are disclosed from preventing, rather than waiting for things that happened and then to be revealed, perhaps the better way is to disconnect the network......but there should be practical difficulties in implement; in short, not to put some privacy into social media, is a way of self-protection. (C)

Even in reality, sometimes when encountering with other people in different living styles, it may be quite far and wide to expose one’s privacy. This can make one feel discomfort for all the people involved and observers. It is because every individual has interpersonal relationships with different standard of social networks, and in fact, people have a fairly complex connection, each link contains different levels of exposure and different ways of information sharing (Donath & Boyd, 2004; Solove, 2011:202). To some extent, social media has changed our way of life forever.

**The Controversy on Freedom of Speech and Individual Privacy**
1. The Argument Extended from Freedom of Speech

Traditionally, it is an unusual phenomenon to escape the gossips from one social circle to another because people belonging to other groups almost do not know, or do not care about other people from different groups. They may find the story with special and obscene details and feel it interesting, but unless they know this person who is involved, or they may not care about that person’s true identification. However, there is an extension in concept of responsibility, only the first person who posted this gossip should take responsibility for the harm, and those who repeat this information, should not need to be responsible for the damage, but at least they should be required to remove the injured person’s name (Solove, 2011:182). In the past only political related issues will be screened by the editors; now even trivial news of injustice can easily be told to the world (Ringmar, 2009:17). This technological development, it seems like evidence to disclosure: We must protect privacy ourselves to ensure that the freedom of the Internet will not reduce our freedom (Solove, 2011:11). In society, without cooperation with others, we often can not do the things we want; in parts of freedom depends on how people judge us in the society. Gossip problem is that it is based on an unconfirmed rumor, but people often do not try to understand the overall context. People gossip and are only interested in the development of their own wealth and slander their political opponents, rather than to maintain what is called social order (Solove, 2011:60-65).

If the disclosure is in bad faith, to humiliate others, or just for fun, it should not come to the same purposes for education or notification. When we judge the gossip and consider it is good or bad, we must think of its characters, contents, and reasons. We should ask: Who discovered it? Did it expose to the appropriate audience? What is the purpose hidden behind, and should we encourage or stop it? The Internet gossip problem is that it is not easily to be controlled (Solove, 2011:74). It is necessary to protect the freedom of speech, but if there are defamatory remarks related to the freedom of speech, should it be protected for freedom of speech and press? At the beginning of formulation of defamation law, almost every nations, agreed that the remarks against the reputation of others is not in the list of constitutional protection for freedom of speech, even freedom of the press is well known for the support of the United States, in 1964, for defamatory comments is to take the principle of “defense of truth.” In other words, the reputation of others which is involved in defamation proceedings against the defendant, the burden of proof must prove that one’s claim to be true, so they can get rid of the penalty for defamation (Lin, 1997).

Since the bloom of the Internet, Internet defamation has become a new kind of slander type of crime and also attracted the attention from many researchers, most
cases are through general approaches, discussing the type and definition of Internet defamation and considering the current criminal law of defamation law suitable for the emerging Internet based criminal defamation (Chang, Ke, & Liao, 2006). Despite J.Y. Interpretation No.509 from Justice of the Constitutional Court, explaining the rule of “actual malice,” it created a milestone in protection of freedom for the press (Ma, 2010), but most studies focused on the interpretation of which more than explain the legal basis and the main intention of the the law (rule of law, Bin, 2000; Lin Shizong, 2001; Ma Lijun, 2009).

2. Privacy of Citizens: The Debates of Legal Goverance of Internet Lynching

Following the tradition, in resent years Internet lynching emerges as a new instrument after the searching engines. However, there will be more controversial for the search behaviors of intention: just only collecting the majority of users in the Internet, it is not too difficult to combine the community power to trace the truth of something or privacy for individuals, and exposure to these details. Improper using of such searches, it is easy to transform into a "vigilante of the Internet" behavior. The dispute is that advocates believe their behaviors realize the justice, meaning that “Internet lynching” is outside the law to maintain the faith, especially those who do not meet the moral values but not cause the shock effects for the law (Luo, 2010:61).

Laws can not cover all aspects of social lives, some reality may still exist in legal vacuum……these usually only rely on the moral and public opinion to restrain……in conditions, Internet lynching is a certain degree of political, economic and social role against corrosion…… (B)

While discussing the Internet lynching problem, at the beginning we have to understand it is different from the previous process and characteristics of the media, even with the traditional search engines. Firstly, the search range of Internet lynching is relatively large. Far away from the traditional point-based message exchange pattern, while greatly expanding the range; Secondly, Internet lynching is a kind of smart search, hundreds of thousands users with some vague concept are gathering knowledge with different aspects of viewpoints that can provide all the information much more collected; Finally, it also requires careful consideration, the Internet lynching has a certain blindness it is because the objects to answer questions are from all over the world with different knowledge and personality, which may cause problems of answers without some rational consideration, or even too emotional for the respondents who can promote the dialogue to discuss the issues that other objects
may participate with them (Liang, 2008:111-112).

The words in cyberspace talked by speakers with unprecedented new power to play the “norm,” but the controlling system or institute that can restrict their own behaviors are still in development. The types of motivation of Internet lynching advocates follow some rules: (1) Tracing assistance type, (2) Problem-solving type, (3) emotional-venting type, and (4) type of malicious insult slander. In general, the tort of Internet lynching focuses on the third and fourth type, involved with the initiators, participants, and visitors. In reality, most common and controversial arguments are so-called Internet-style humiliation, which creates a permanent record for people who against the rules and maybe do some illegal things. It comes from amateurs who proclaim themselves as investigative reporter, but usually they do not give the target a chance for self-refutation. Then many people participate in such issue discussion, and assist with the humiliation to the victims, the justice of the network becomes vigilante of the Internet (Solove, 2011:78). The objects of those who are caught by Internet lynching, their privacy is often exposing for all, and they bear the blame of that people should not endure. This behavior is similar to the nature of the implementation of a “lynching” and thus violates another greater justice (Dai, 2011:37-40).

The values for the pursuit of truth......this is an action, but what are people looking for......is there any kind of information......does this information with so much value to the level for paying all costs to do it, in what reason that people hope to find the facts and.....the proportion of individual emotional factors......are still in questions......or may be easy to become the humiliation-based type with collection and disclosure......which in addition to the risk of violating the laws......is an immoral behavior. (F)

Turning to the benefits of Internet-style humiliation, at least it can contribute to maintenance of its etiquette and social norms. However, the drawback is the “permanent impact,” and the trouble is that punishment often tends to out of control, disproportionate punishment will cause social risks as the results that people’s lives probably because of a very small piece of fault and being destroyed the whole structure. Permanent humiliation may be useless because it punishes the people more than the actual needs and prevent them from establishing a new life. Internet-style humiliation are always out of control because of too much strength, making the baffle becomes uncivilized, and as the mob generally (Solove, 2011:92-102).

Privacy......should refer to no direct relationship with the public interests, but with the individual’s personality, dignity and other information......in
general, privacy can also be subdivided into “personal data” and “human dignity”......personal information, such as: real name, portrait, age, home address, mobile phone number, working place and so on; human dignity is related to: photos of nude, sexual behavior, romance which is not open in public, mental or physical defect. It is a tort without the permission, especially in the situation to the public. (I)

People are punished in the absence of holding a public hearin; the risk is the regulation of the execution may be wrong, but the humiliation is very tempting, especially when we are sure that we do see a kind of things that should be condemned, but what if we are wrong? Causing there are people who did nothing wrong but are humiliated finally, and humiliation suffered by a person, unless the acts belong to personal vengeance, or it is the “bully” (Solove, 2011:96-98). How to determine the scale of protection for the right to freedom of speech, when freedom of speech has the conflict with other rights? General perspectives, it would refer to “the principle of proportionality” concept, to measure the conflict of legal interests; specifically, that means the damage to protect rights, the protection for freedom of speech should not be greater than the proceeds of it (Chang, 2010:21).

However, the debate today is that there is some conflict between privacy and freedom of speech. The relation between privacy and freedom of speech is as if the conflict between anonymity and responsibility. Traditionally, privacy is seen as “binary,” which divides the world into two aspects of public and private. Once the information is exposed to the public in any way, it is no longer private. Thus, in accordance with the laws of the mainstream viewpoints, if the news is in public, exposing to others, then it is no longer privacy, never rotating no matter how. New media today, when facing of the traditional binary-type understanding of privacy, make some very serious challenges. Our information is collected everywhere by new technology, surveillance cameras are set up in each place to detect. Equipped with a camera cell phone, everyone can take a picture, and become an amateur paparazzo. The truth is that most of our activities in daily life are taking place, neither purely public nor purely private. On the contrary, our activities often occur in a range of twilight zone between public and private. When we are in public places, most of the time we do not want to be photographed, let alone be put on the websites (Solove, 2011: 216-250).

Boundaries of the current issue on privacy......has been different from the past......the acknowledge, not just something, or whether a person has a relationship with someone......in addition to the original concern, the news
may be……some things have a critical point, it has been exposed to others the importance of the problem......but the more important, the nature of being exposed, and the information is being used for what......Simply to describe, that is, how information is to be carried out and in which platform to be discussed...... (B)

This concept illustrates the importance of privacy to be the result of diversity perspectives, and that is not all information should be kept confidentially. Usually when the secret has been disclosed, it has no obligation of confidentiality, but the excuse still can not be established because of privacy has been compromised, people can not assume that a complete message, or without consent to use the Internet making the news be set into public. Although we rarely maintain the integrity of all the secrets, but that does not mean all secrets must be disclosed without hidden at all.

Laws give citizens the right with freedom of speech, but the rights are not entirely without boundaries, and that is in the practice of their rights, achieving their own freedom, people can not violate rights and freedoms of others (Yang, 2009:129). To some aspects, freedom of speech may conflict with personal privacy. Therefore, a compromise way appears, the value of freedom is high, but not absolute (Solove, 2011:195-197). Hence, in consideration of the concept of privacy, freedom of speech must also be considered relatively; after all, this is not a complete contradiction and conflict with each other fro the perspectives of individual rights.

**Freedom of Speech under the Consideration of Human Rights**

**1. Values of Freedom of Speech**

Taking freedom of speech as fundamental human rights have been a part of constitution for the majority of countries in the world and other international conventions also determine their value. Human rights are the concepts to protect human dignity, and everyone has the right to keep from any improper infringement of nations, such rights are inherent when people were born and should not be transferable. During the eighteenth century, since the “Declaration of Independence” of the US and the “Declaration of Human Rights” of France have been passed, human rights were expressly stipulated in writing for the constitution from different nations. After a long period of time, the United Nations adopted the “Universal Declaration of Human Rights” in 1948, the “International Covenant on Civil and Political Rights” and the “International Covenant on Economic Social and Cultural Rights” in 1966,
human rights become an international trend of the times (Shi, 1998), which is also a symbol of modern civilization for a country. After the release of martial law in Taiwan, those who were in power did not take human rights as western democracy being a means of intervention in internal affairs, but having will to accept democracy and human rights as a symbol of our country towards developed countries. Following such direction of national policy, a favorable trend to more free and democratic country (Wei, 2008:8).

On the concept of cultivation in human rights......should we worry about, from subtle place to start......like understanding more for the behaviors......more awareness, and values......so, explain it more clearly, that is, understand how to respect and protect one’s basic rights, the simplest hypothesis......like the beginner of a new society, do people ever think about, if we deliver our CV to various companies we chose, what is the result or fate do these autobiography face? Not discussing the “paper” to be discarded, but how personal information is to be read.......and how to be collected, in the situation you are not aware of, becoming a file, whether voluntarily or involuntarily...... (H)

In a democratic society, freedom of speech is an indispensable power. When discussing public issues, the attitudes should uphold unrestricted, lively and strong with completely open principles. However, speech of undermining the reputation of others is not a crucial part for public issues, and there is no need to protect by constitution. Against a powerful political discourse, freedom of speech is necessary, when people can talk about policies open-minded, freedom of speech will help political issues under the rational public discussion, and it is the most valuable (Solove, 2011:194-201).

Freedom of speech on the Internet is often related to anonymity......the effect of excessive protection for anonymity, sometimes causing damage to democracy......that will easily prone to irresponsible remarks. Although the traditional political elite, from their professional judgment, often not difficult......also more likely to ignore some of the comments published anonymously......because they think, perhaps a lot of practical experience tell them that anonymous sources are not very value. (A)

However, freedom of speech still has its importance in the development of civil society, although anonymity may cause the value impact for freedom of speech;
overall, in a democratic society freedom of speech possesses an essential element of national development. About the value for freedom of speech, the main description is as follows: (1) value is to “the theory of marketplace of ideas;” (2) freedom of speech can be “democratic process theory,” and (3) freedom of speech expresses the free discourse and is called “self-fulfillment theory” (Lai, 2005:203).

Under the constitutional doctrine, the purpose of making laws from nations aims to protect people’s basic rights. The fundamental rights protected by the constitution, mainly through the general mode of action to form a basic right to protect legal interests. Mode of action for basic rights can also be understood by the initial self-realization: in order to protect the “self-determination,” forming a subjective mode of action of law, basic rights are as individuals’ subjective public rights through claiming the basic rights to court for subjective public laws, excluding interference from nations to their self-determination. In order to protect the “self-expansion,” forming the mode of action to an objective method, the basic right are as a national objectives in the obligations of laws, but also as a decision for basic constitutional values, constraining the legislative, executive and judiciary institutes, but also to establish the overall legal order in the legislative, administrative and judicial organization as the objective values, so that the nation has the obligation to protect fundamental rights for people. Thus, when nations are in the implementation of power, there must be the essence of fundamental rights, the people with the greatest possible freedom for self-realization as the premise, to guide the principle.

2. Implications about Legislation of Freedom of Speech Based on Human Rights

Regardless of personal reputation or freedom of speech are fundamental rights guaranteed by the constitution. However, when conflict appears among a variety of different individual fundamental rights, the laws need to be adjusted; in the meantime, the decision should be made from reasonable boundaries. Such concept of equality must base on belief in human rights, and only individual private sphere is a way to prevent mistakes made in the public domained by government, which is the reason why individuals must need the freedom of speech; of course, there is also the special protection for freedom of speech (Ringmar, 2009:142). In the past, most people were busy working all day long to earn a living, so there was no time to worry about these abstract rights had been violated or not, and not many people cared about the poor others as Adam Smith indicated in the famous “Theory of Moral Sentiment,” a person must be in the material conditions and property, one's word will be listened (Ringmar, 2009:14), but the freedom of speech in consideration based on human rights, meaning the rights must be think of as to vote in political elections, not depend on wealth and
other conditions as equal significance.

Some remarks on the Internet……and many are hiding behind anonymity to talk……this phenomenon represents……nothing more, but people worry about their true voice will lead to retaliation……whether it is appropriate to talk……they do not know if that causes the official censure and further……evidence gathering……even blackmail culture……and make themselves into institutes or school……the unpopular people, so……the speech is different from the mainstream perspectives, it may have been completely unable to express……that is suppressed……the freedom of speech……the implementation of the reason is very simple … those who have power do not often accept their authority being challenged, but this is a question on human rights. (G)

Taking freedom of speech on the perspectives of human rights, people know they can speak for themselves, but in real life, such facts rarely allow to occurred because “what language” and “who is speaking” will be excluded from the thinking and this is self-evident status; then there is the “spokesman” emerging to the general public to tell us what to think, how to vote, what is the value to pursue, and what to consume (Ringmar, 2009:15), it is similar to a so-called expert comment to guide the life and explore the direction for us.

Actually, in real life, the words from status for who has power……and other general statement is completely not the same……two completely different things … maybe we can assume that most people have no freedom of speech……most may not aware of it, or do not use this rights to speak……what we see … there are only limited speech……perhaps there is room to be further defined…… (I)

Speech is a kind of power, sometimes individual freedom of speech may not be suppressed, but it may simply that someone does not aware of his/her own power so there is limited opportunity to demonstrate what one can express. If we extend this concept to the Internet, we will find the fact that many rights and obligations related to the concept, especially the main idea involved into the laws, and it should deliver a conscious mind and sense of responsibility, in addition to stop the network space spreading gossip and rumors, and encourage both sides, perhaps in reality, both are in a non-reciprocal to a more rational approach dealing with the dispute. Placing in the speculative process of dispute, such as a debate to represent, may be able to achieve a
so-called rational.

Individuals may not be entirely rational ... perhaps, like to hold a public debate forum, both plaintiff and defendant discuss with the perspectives, the brainstorm......the conclusion may be often more than any individual can think of......individual can not be effective to reach the goal by his/her own reason, rationality only can be reached through combination of solidarity......this is a consensus for the freedom of speech......to highlight the true face. (D)

There are several reasons to defend the freedom of speech: (1) personal autonomy, (2) democracy, and (3) perspectives of the market (Solove, 2011:200). This symbolizes that there is a questionable issue, as if someone made some mistakes in public, who would determine whether to open their condemnation? Recorded with a mobile phone according to the functions of ordinary people do? Unless we protect the privacy of public occasions, or humiliation is very difficult to stop. This way does not mean absolute protection, but of a type of use and disclose the limitation (Solove, 2011:253).

The limitation of individual freedom, although it is non of political equality, unrelated to the consolidation and depth of democracy, even does not affect the separation of power, process or the implementation of distributive justice, but will provide for the individual to understand what kind of life worthy of planning, the impact is fairly giant, so it has been concerned by political philosopher. Individual freedom is unlike political freedom, the two sorts of basis (or importance of the sourcea) are not the same: in general, political freedom and process are relative to fairness, whereas the value concept of individual freedom and the personality are associated with development of autonomy. On the political process (competing for political power, affecting the exercise of political power), in terms of fairness, freedom of political speech, freedom of assembly and association are important to protect, but the speech causing damage for freedom does not seem to direct related to the need of protection.

Not explicitly guaranteed by the constitution for individual freedom, there are a lot of factors involved to consider if the nation should make laws to restrict, and what are the judgements from most people often influence national decision-making. If the judgement of most people is blind by prejudice, then individual freedom may be unduly restrictive. Of course, the judgement from most people is biased or is insight, we do not have a priori standpoint to determine and ensure but only can with an open mind to reflect, criticize, and strive to care (Shei, 2006:3-35).
Conclusion

The purpose of this article is designed to explore people’s feeling about the related issues for public freedom of speech in new media, including awareness of individual rights and obligations, protection and realization. In this paper, qualitative methods are used to analyze by interviewing and comparing the contents of the text to construct and aspects the author concerns. To make new media enable to promote freedom of speech on the development of democracy, in the relevant control thinking can be nurtured with different concepts: (1) to strengthen the protection for freedom of speech, the principles and norms of the legislation, specifically to protect and regulate online behavior with legal responsibilities, including the admissibility of evidence and the network effect of the infringement and disputes; (2) to strengthen the effectiveness of the publicity for the concept of civil society, civic rights and obligations for self-awareness, establishing social atmosphere to form a social environment can create the effect of protection and regulation for all the people, and (3) to strengthen the concept of new media for the cultivation of human rights, the progress of the Internet technology moves so fast, and the network of actors should be taught about the relative norms in order to protect freedom of speech in aspects of structure, but also be taken into account the safety of new media, privacy and other results.

Reasonable network communication orders should be constructed, the similar principles to the standard “Internet lynching,” such as: (1) the principle of public interests, (2) directly relative principle, (3) limited principle of privacy for public celebrities, and (4) pecial protection in principles for minority. In addition, about the rights on freedom of speech, we need to consider from the aspects of subjective interests, especially from the interactive level, taking into account for any expression. When using others’ information in the new media, the subject has the rights of his/her information that has kept confidential and restricted the use of effects. When public information appears some privacy errors, incomplete and outdated cases, the subject has rights to request the correction, supplementary and updated information. Building up a responsible attitude for the actors to concern about their behaviors, this protects the freedom of speech for others, but also shapes the effect of the formation of self-discipline. Above all, the ways are to reduce the mistakes of new media, disregard of another’s privacy and personal attacks to others.

The freedom of speech must be protected by nations because it reflects many precious meaning and value of properties in contemporary democratic society; in particular, to carry out human rights: (1) freedom of speech reflects the fundamental
human rights, (2) freedom of speech represents obligations of nations on human rights, (3) freedom of speech reflects the tolerance of human rights, and (4) freedom of speech reflects the economy and markets of human rights. However, the realization and implementation for freedom of speech is connected with a country’s history, tradition, culture and legal system, the degree of perfection, but as a need to promote the universal values, there is indeed still a lot to explore, improve and develop the rules of law in our country.

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