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“Private power and new media: the case of the corporate suppression of WikiLeaks and its implications for the exercise of fundamental rights on the Internet”

The focus of this paper will be the recent conduct of various corporations in withdrawing Internet services provided to information portal WikiLeaks in light of the controversy surrounding WikiLeaks publishing classified documents of correspondence between the US State Department and its diplomatic missions around the world in late 2010. The implications for freedom of expression (especially the right to access information) on the Internet will be examined in the wake of WikiLeaks, particularly in the context of the infringer being a private actor, and one with mono- or oligopolistic status. The motivation of these private actors in contributing to the suppression of WikiLeaks will be assessed to examine whether it constitutes an example of Birnhack and Elkin-Koren's 'invisible handshake' i.e. the 'emerging collaboration' between the state and multinational corporations on the Internet that they posit is producing 'the ultimate threat'. The legal recourse open to WikiLeaks and its users for the infringement of fundamental rights will be examined, especially the First Amendment to the US Constitution since the geographic location for these events has mostly been the USA. Finally, the postscript to the WikiLeaks controversy will be considered: the “information warfare” conducted by hackers will be examined to determine whether the exercise of power of these Internet corporations in a way which infringes fundamental rights can be checked by technological means, and whether Ziccardi is correct in his view that hackers are indeed the true electronic defenders of freedom of expression.