

Intermediary **Liability** Blog

The Evidence Hub for Policymakers

Donald Trump, Seditious and Social Media: Will the Ban Stop the Rot?

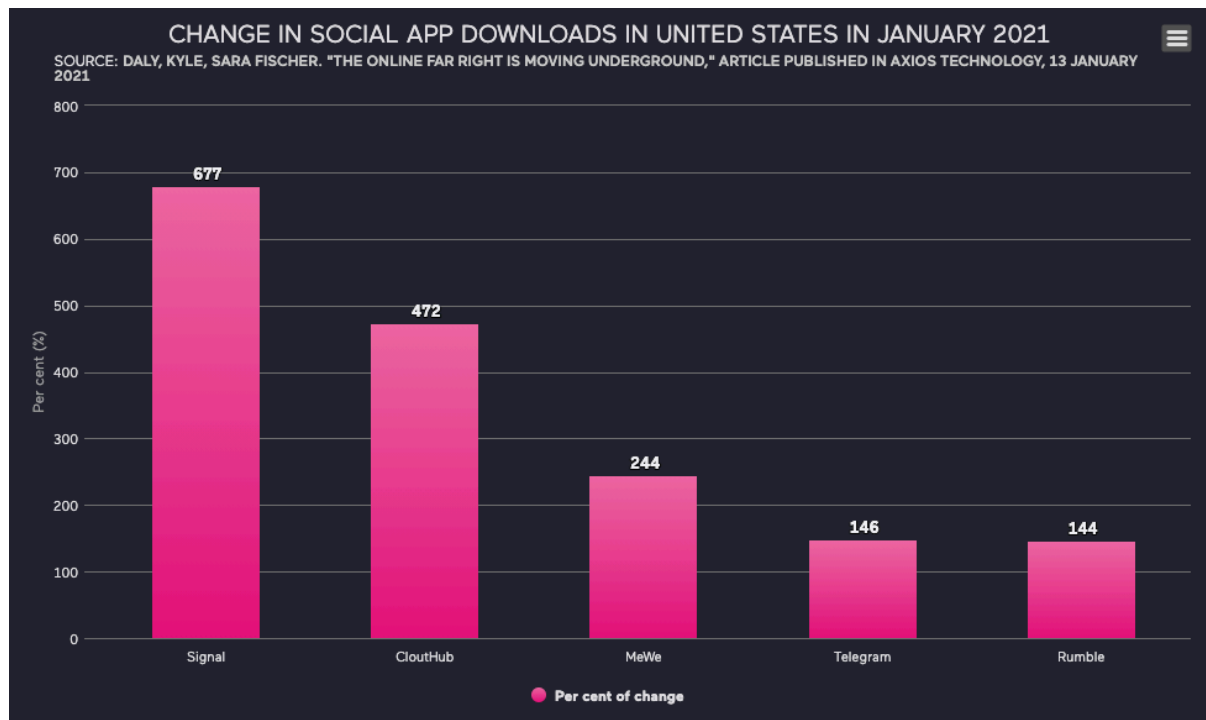
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The debate on Donald Trump's belated suspension from social media platforms – he has long been in violation of “community standards” that ban the spread of illegal content and would have gotten ousted much sooner had he been an ordinary user – has ranged far from the real issues at stake here. For starters, the first amendment of the United States Constitution guarantees free speech. But those guarantees do not apply to crimes that might be contained within the speech itself. A good example is incitement. It is perfectly legal to shout “fire” in a crowded theatre if there really is a blaze and people's wellbeing is in danger. But if there is no fire and the intention is merely to launch a stampede in which people might be harmed, this is most definitely a crime. And the crime is prosecutable and there is no free speech defence in that case.

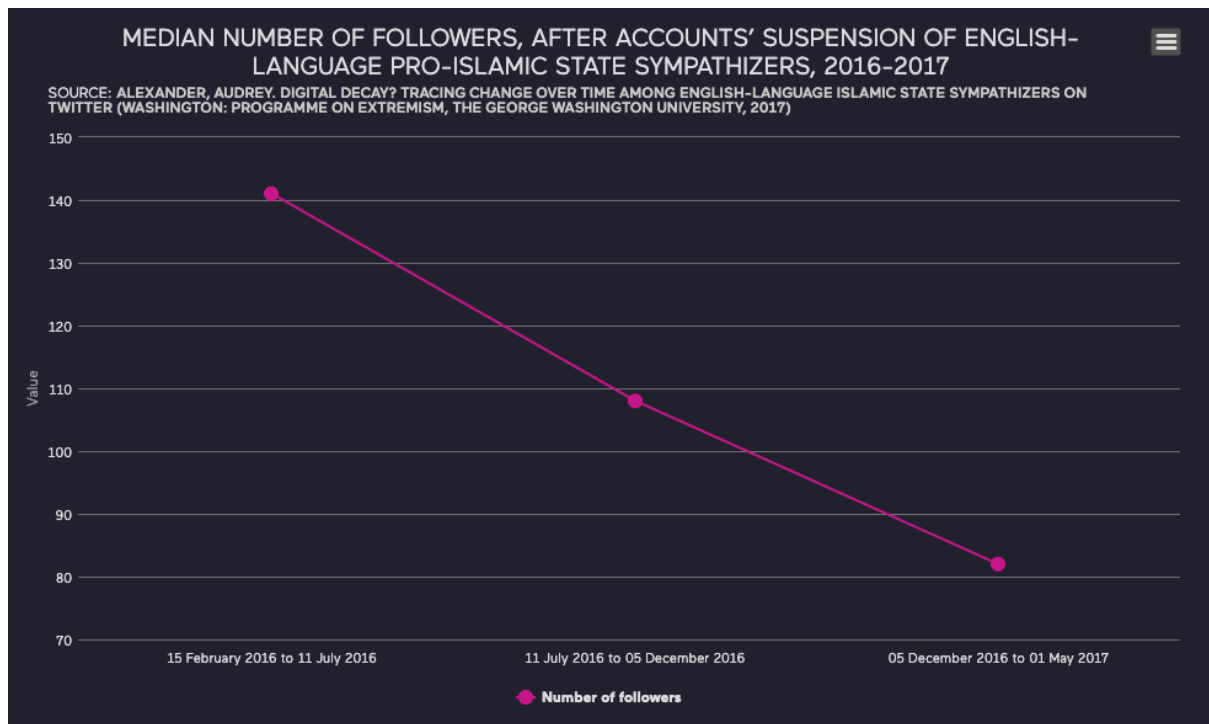
Trump's words have long since crossed a line where actual crimes were being committed – and spread via online platforms, including deliberate lies about the sanctity of America's electoral system, the possible involvement of a political rival's family in a presidential assassination, allegations about “conspiracies” and “witch hunts” involving the former U.S. president and vice-president in treasonous crimes, and even the bizarre claim – directly contradicting the findings of America's intelligence agencies – that efforts to hack U.S. elections could be the work of “somebody sitting on their bed that weighs 400 pounds [181 kilos]” and not the work of Vladimir Putin. And these aren't just lies that he spreads; actual harm has resulted in many cases. The explosion in Washington D.C. on 06 January 2021 was merely an impossible-to-ignore example of the danger malicious lies and implicit calls to violence can induce.

One would think that Angela Merkel, of all people, would understand the toll that deliberately misleading political speech can have on politics itself. Germany itself has a long and tragic experience with the effect that lies can have on democracy; and it has responded with some of the world's toughest laws against them. To this day, Holocaust denial is a crime in Germany – and not just because denying the Holocaust is a lie, which it is. But because the lie itself can lead to horrific consequences in a political context if it is allowed to fester. One is left wondering what muse Merkel is listening to these days. Is her opposition to a private-sector-led ban on Trump's incendiary messaging just the righteous first reaction of a well-educated scientist who grew up in East Germany? Or does German resentment of the rising power of American platforms run so deep that she misses the import of the moment and allows herself to stray wildly from a seminal German position on the issue, one that guided the remarkable return of Germany to the family of nations over the last 70 years?

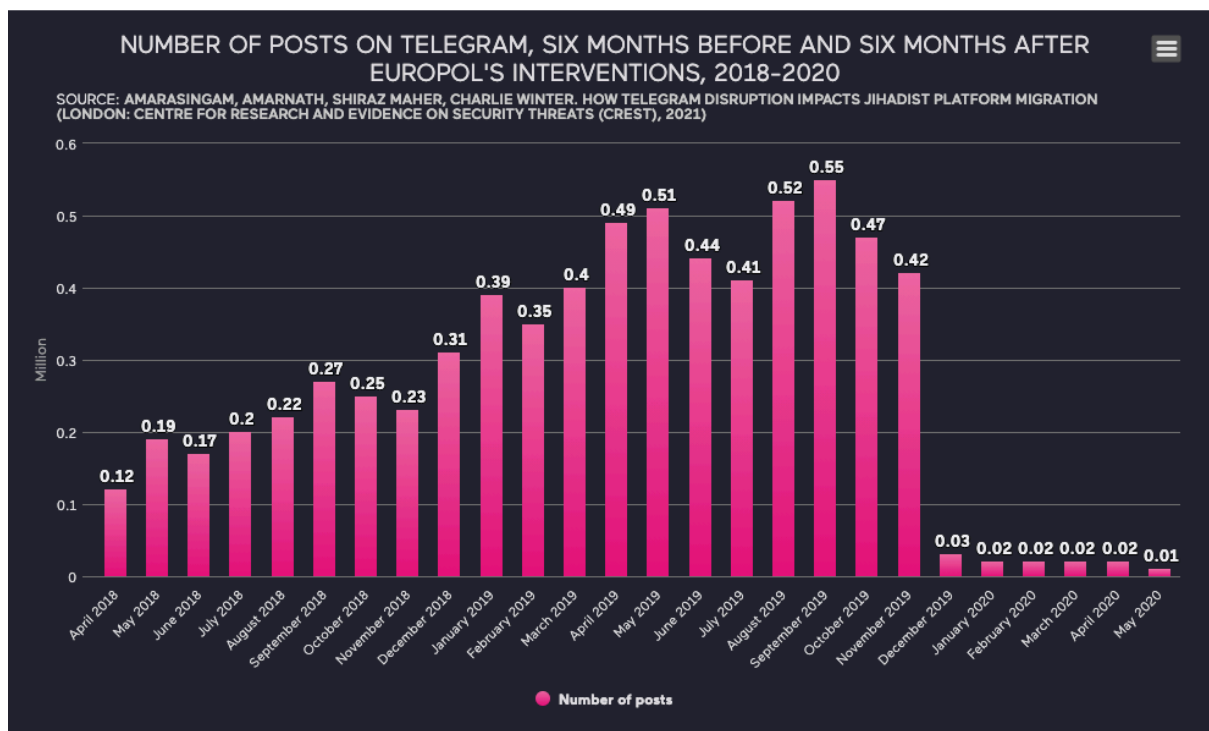
Less attention has been given to the actual effectiveness of banning users, and here there is a mountain of evidence worth revisiting in this context, particularly in the long fight against terrorism and terrorist incitement online. Some argue that an account banned on one platform will only migrate to other accounts and platforms – and, indeed, [many rightwing conspirators merely drifted to other far-right platforms after the Trump ban](#). These apps have seen dramatic growth in the week following Trump's ban from social media and the U.S. insurrection. Several platforms, including Apple Store, Google Play and Amazon Web Services have subsequently banned the more egregious among them, including Parler, for also fomenting incitement and spreading the same lies that got President Trump banned in the first place.

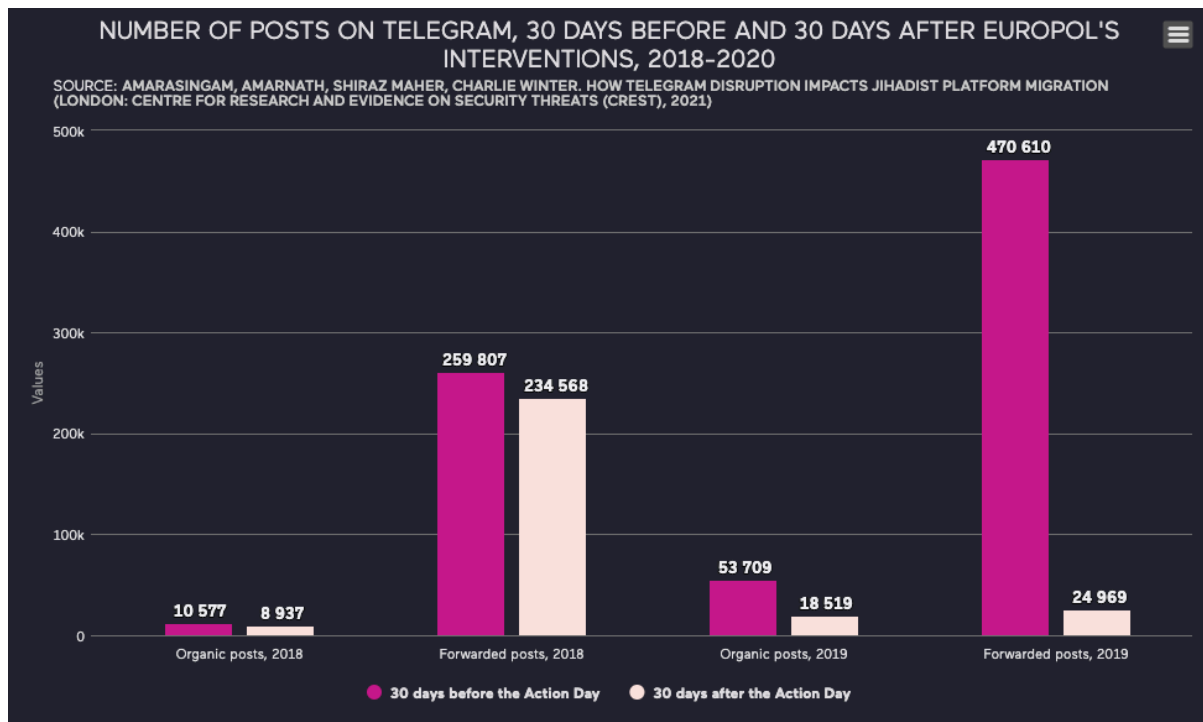


However, years of experience with fighting terrorism online show that bans can be very effective. [A recent study from the Programme on Extremism at George Washington University demonstrates that – in the case of Islamic State of Iraq and the Levant \(ISIS\) – the suspension of one or two high-profile English language accounts had a substantial effect on efforts to spread illegal content elsewhere, including the congruent effort to rebuild the terrorist communities dispersed by the ban in other places.](#)



Europol has had an interesting experience as well. It was able to radically slow the spread of ISIS content on Telegram, a messaging service popular with jihadists, by working directly with the platform in 2019. Later, both Telegram and Europol found that the effort needed to be ongoing; an initial 2018 one-off effort had proven less effective. Since then, [there has been substantial follow up and monitoring, which have had a powerful effect on curbing the spread of material that incites violence as well as on the “platform migration” that others might have predicted, according to a study by the UK Centre for Research and Evidence on Security Threats \(CREST\).](#)





What these studies consistently show is that, despite the openness of the Internet and the endless possibility to create new platforms and open new accounts, banning users who spread lies and illegal content – and the apps on which they spread – can achieve a significant impact in slowing down terrorist outreach and recruitment capacity, especially when public and private actors collaborate.

But platforms were still hesitant to ban Donald Trump. They argue – and apparently believe – that they perform an important public function in relaying the words of a democratically elected president of the United States even when the information those words contain is patently false and they don't themselves share the views or intent behind the message. There is some merit in that point of view – but not without qualification. The fact is, [the presidency of Donald Trump left us with the question, what do you do when the elected leader of a democratic country turns rogue?](#) Do we allow the president to violate the law repeatedly by dutifully spreading his lies and ignoring the mounting violence? Or do we better serve justice by holding elected officials to the same legal standards and norms of public responsibility as the rest of us? It's not like depriving President Trump of a social-media megaphone deprives him of a voice – he still has the podium of the White House and ever-present eyes of live television and the White House press corps to carry his words to the world and parse his every utterance. But does he really need a special channel to spread disinformation that others are not allowed to spread? The debate over how social media platforms and the media itself should deal with a rogue leader in a democratic state has only begun.

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This blog post appeared on the Intermediary Liability Evidence Hub, an

interactive website managed by [The Lisbon Council](#), a Brussels-based think tank, to gather available evidence and data points on the issue of intermediary liability. Its website is <https://evidencehub.net/>.