Lecture- 10

Freedom of expression on the internet

Freedom of expression has long been regarded as one of the fundamental principles of modern democracies, in which civil liberties are honoured and regarded as a prerequisite for individual development and fulfilment.

The First Amendment in the American Constitution famously guarantees US citizens the right to free speech. In Britain, until a "bill of rights" is established, in the form of the adoption of the European Convention of Human Rights next year, free speech is only defined negatively: we can only speak freely if the laws covering confidentiality, contempt of court, data protection and official secrets aren't transgressed.

Getting the balance between freedom to speak and freedom from fear has troubled democracies and democratic theorists for hundreds of years. The 19th Century philosopher JS Mill, whose On Liberty (1859) remains a potent exposition of the value and limits of liberty, argued that you must distinguish between freedom to speak and freedom to act.

Written or spoken encouragement is not action, Mill argued, believing there could be no barrier to the expression of opinions. Even offensive lies must freely be expressed, for it is only in their expression that they can be exposed as fraudulent, Mill maintained.

It is this classic liberal argument that is still used by civil liberties' campaigners on the internet, like Hatewatch, which argues that those "hate speak" groups, such as neo-Nazis, must still speak freely, if only to expose and discredit themselves.

However, another respected strand of democratic opinion argues that free speech can never be this absolute. The recent $107.9 million fine against anti-abortionists for publishing a list of abortion doctors on their website - with a clear, menacing intent - represents the victory of those who argue that in assessing questions of free speech, a balance between conflicting freedoms, and different people's freedoms, must be found. In this case, the anti-abortionists' "free speech" incited violence against certain doctors, who were unable to live free from fear.

What is the problem with the internet?

It is not simply a case of "same old issue, new technology" with free speech and the internet. With its low start-up costs and global reach, the internet enables almost anyone in the West, in theory, to speak and be heard around the world, as well as hear others' speech.

Internet speech has potentially far greater impact than speech through ordinary media. It has the potential to be the genuine voice of the grassroots, uncontrolled by any media organisations. It has the potential to communicate in video, audio, pictures and text, as well as reach far more people than the biggest satellite TV station or best-read international newspaper. It also has the potential for people to interact, uniting disparate movements in distant countries or enabling them to add their own information or support. So, internet speech can facilitate or incite action much more effectively than traditional media. In this way it is an intensification of the problems that come with free speech.

It is likely that the internet will be the arena in which the tense relationship between the freedom to speak and the freedom from fear will be negotiated in modern democracies.

Can the global character of the internet defy censorship?

At present different countries' different laws apply to internet communications and content, although there are problems tracing just who is responsible for sites, particularly when they originate from, and are hosted in, foreign countries.

Countries like China have successfully prevented their citizens from receiving a huge quantity of (pro-democratic) material on the internet. But it is, inevitably, a qualified success, as users discover ingenious ways of storming clumsy technological barricades.

It is not just restrictive, authoritarian governments, such as the Chinese government (which recently jailed Chinese businessman Lin Hai for two years for supplying addresses to pro-democracy e-mail newsletter VIP Reference), which seek to limit free speech from the top down, by filtering out undesirable sites.

Governments in the USA, Germany and France, have all taken significant steps to curtail free speech on the internet. And internet idealists are more fearful of a growing "censorship from within" as corporations like Microsoft, seeking the respectability of the censor, embed censorship tools in their software that users are oblivious to.

What laws restrict free speech on the internet?

The law is flustered and in flux over the internet. There are no international laws governing internet use. At present different countries' different laws apply to internet communications and content, although there are problems tracing just who is responsible for sites, particularly when they originate from, and are hosted in, foreign countries.

Despite this, most governments are in the process of developing new laws to better monitor and control internet content.

Often it is the Internet Service Providers (ISPs), the "publishers" who provide web space, who have been held responsible for internet content that individuals are the authors of. The anti-censorship pressure group, Campaign Against Censorship of the Internet in Britain, was created in response Scotland Yard's request to ISPs to censor their news feeds