

BELGIUM CAMPUS

IT LAW AND ETHICS

ETH271

FREEDOM OF EXPRESSION



The background of the entire slide is a photograph of a highly decorative wooden ceiling. It features a complex network of dark wood beams forming a grid of hexagonal and octagonal compartments. Many of these compartments are filled with a light blue paint, which is further decorated with intricate white and gold patterns, including stylized sunbursts and floral motifs. The overall aesthetic is reminiscent of traditional European woodwork or perhaps a painted-on architectural style.

WHAT IS THE MAGNA CARTA?

Human rights are an old concept. They include the right to dignity, privacy, education, and expression.

FREEDOM OF EXPRESSION

The South African Constitution guarantees the right to freedom of expression which includes:



01

Freedom of the press
and other media

02

Freedom to receive or
impart information or ideas

03

Freedom of artistic creativity

04

Academic freedom and freedom of
scientific research

WHAT ARE THE LIMITATIONS TO FREEDOM OF SPEECH? WHEN IS IT NOT ALLOWED?

Hate speech, incitement to violence,
defamation, and morality

DEFAMATION

HATE SPEECH

INCITEMENT

MORALITY

LIMITATIONS ON THE RIGHT TO FREEDOM OF SPEECH

DEFAMATION

Defamation is an unlawful and intentional publication of a defamatory statement concerning a person and which has the effect of diminishing their good reputation.

The best defense against a defamation case is the truth. If a statement can be shown as truthful, the case ends there.

DEFAMATION

There are 2 types of defamation dependent on the format it takes.

An oral defamatory statement is **slander**.

A written defamatory statement is **libel**.

**what is libel tourism?*

WHEN IS IT AN OPINION AND WHEN IS IT DEFAMATION? AN OPINION IS ONLY PROTECTED IN THIS CASE:

It's a matter that relates to public interest.

For example, if news24 states that a politician took a bribe, that could be defamation. However, if this is a current matter with headlines on all the news sites, it's protected.

The veracity of the statement is hard to determine.

For example, saying McDonalds beef is pink slime is difficult to prove. The connotations are too flimsy.

Can't reasonably be interpreted as a factual statement about someone.

Saying some people in government accept bribes is clearly not targeted at an individual. In this case, context is important.

LIMITATIONS ON THE RIGHT TO FREEDOM OF SPEECH

HATE SPEECH

Speech that is merely annoying, critical, demeaning, or offensive, enjoys protection under the laws of free speech. It is only possible to take legal action when the speech turns into clear threat and intimidation against specific people.

Hate speech refers to offensive discourse targeting a group, or an individual based on inherent characteristics (such as race, religion or gender) and that may threaten social peace.



HATE SPEECH

What is holocaust denial?

Where is it illegal?

The definition of hate speech, however, differs between countries. If a person promotes Nazi ideology from Nepal, they will not be persecuted, but if they were to subject themselves to the jurisdiction of Germany, they may well be persecuted since it is illegal in Germany (as is denying the Holocaust, swastikas, and the Nazi salute).

Displaying a swastika or referencing Adolf Hitler is banned in public in Germany, however, for art or education, it is allowed.

Movies such as Inglorious Bastards, with gratuitous Nazi displays, therefore, was allowed.

HATE SPEECH

The United Nations states that hate speech has 3 attributes:

01

Hate speech can be conveyed through any form of expression, including images, cartoons, memes, objects, gestures and symbols and it can be disseminated offline or online.

02

Hate speech is discriminatory (biased, bigoted or intolerant) or pejorative (prejudiced, contemptuous or demeaning) of an individual or group.

03

Hate speech calls out real or perceived identity factors of an individual or a group, including: religion, ethnicity, nationality, race, colour, descent, gender,” but also characteristics such as language, economic or social origin, disability, or sexual orientation, among many others.

DONALD TRUMP ACCUSED OF INCITEMENT

On 6 January, thousands of Trump supporters gathered at a "Save America" rally organised to challenge the result of last November's presidential election. They listened as Mr Trump spoke to them on the National Mall, near the White House in Washington DC.

In a 70-minute address, Mr Trump exhorted them to march on Congress where politicians had met to certify Democrat Joe Biden's win. The attack began moments after he took the applause.

INCITEMENT OF VIOLENCE

A person is deemed to have committed the common-law offence of incitement to public violence if a person has conducted him/herself in a manner, which the reasonable consequence would be the act of public violence by others.

LIMITATIONS ON THE RIGHT TO FREEDOM OF SPEECH

INCITEMENT OF VIOLENCE

In order for there to be incitement of public violence, the South African Riotous Assemblies Act requires that there is either:

Offensive conduct by the accused

Offensive words spoken by the accused

Offensive words published by the accused

DEFAMATION

HATE SPEECH

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MORALITY



LIMITATIONS ON THE RIGHT TO FREEDOM OF SPEECH

MORALITY

There are several types of expression that fall under the morality clause. These include obscene speech and pornography.

OBSCENITY

The government prohibits several other types of speech including those threatening national security, perjury, and sedition. What we will be looking at is respect for public morals.

Obscene speech in a public setting is defined as:

Would the average person find that the work appeals to sexual interest (prurience)?

Does the work depict or describe in an offensive way, sexual conduct as defined by the law?

Does the work lack literary, artistic, political, or scientific value?

LIMITATIONS ON THE RIGHT TO FREEDOM OF SPEECH

MORALITY

There are several types of expression that fall under the morality clause. These include obscene speech and pornography. Morality is a subjective topic and therefore highly dependent on the culture and context.

PORNOGRAPHY

Under the Film and Publications Act 1996, only pornographic content originating from a website hosted in South Africa is prohibited, whilst pornographic films and photographs originating from different countries are entirely legal.

South Africa also joined countries such as the USA, the UK, Australia, and Japan, by outlawing “revenge pornography” which carries a possible jail sentence and a fine of up to R300 000.

What are these books about and what do they have in common?

The Anarchist Cookbook
William Powell

Mein Kampf
Adolf Hitler

The Satanic Verses
Salman Rushdie

Lolita
Vladimir Nabokov

Animal Farm
George Orwell

CENSORSHIP

Censorship operates on the assumption that the thoughts, feelings, opinions, beliefs and fantasies of human beings ought to be a subject of moral judgment and ultimately social and government action. Censorship is a necessary obligation of the authority to protect the moral and social order.

DEFAMATION

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CENSORSHIP

Internet censorship is *the control or suppression of the publishing or accessing of information on the internet*. It can take many forms – limiting access to certain websites, allowing access to only some content, rejecting the use of certain keywords in search engines, tracing and monitoring internet activities of individuals, and harassing or even jailing individuals based on their internet use.

CENSORSHIP IN SCHOOLS

Censorship in schools, however, is a difficult topic since the line between educational and offensive can become blurred. For example, at one stage the website for the Council of Gynecologists in the UK was viewed as a pornographic site.

Schools are therefore allowed to monitor students' online activities. With the popularity of social media, controlling access has become a great deal more complex since teenagers are now able to directly interact with each other.

DISCUSSION

INTERNET CENSORSHIP

1. How far should internet censorship stretch in the educational system?
2. What age would you give your child a phone? What limitations would you add?



WHAT IF THERE WAS NO ANONYMITY ONLINE?

What would happen if everyone was forced to use their real names and pictures on the internet?

ONLINE ANONYMITY



Sometimes people take freedom of expression too far since the perceived anonymity of the internet presents the illusion of protection.

Being able to speak your mind without fear of reprisal is important but anonymity can also be used to commit illegal acts.

What are the advantages and disadvantages of online anonymity?

What is Plato's story about the Ring of Gyges? What does it try and teach us?



Invisibility and anonymity can make a good person evil.

ONLINE ANONYMITY

01

DOXING

The examination of internet records and then revealing information (such as address or phone number) of an anonymous poster is known as doxing.

In China this is known as Human Flesh Searching.

02

JOHN DOE LAWSUIT

This type of lawsuit can be filed against a defendant whose identity is temporarily unknown. The plaintiff can then request subpoenas to obtain information.

WHY DID THE S.W.A.T. TEAM GO TO WOODYSGAMERTAG'S HOUSE?

Swatting is a form of doxing and is the action or practice of making a hoax call to the emergency services in an attempt to bring about the dispatch of a large number of armed police officers to a particular address.

FREEDOM OF SPEECH AND MESSAGING APPS

Telegram is often thought to be more secure than WhatsApp but that is debatable. It's commonly agreed that Signal is the most secure chat application.

A common question regarding privacy is why people care about privacy if they have nothing to hide. This is a fallacy.

