

# Ethics in Information Technology, Fourth Edition

## *Chapter 5* *Freedom of Expression*

# Objectives

- ▶ As you read this chapter, consider the following questions:
  - What is the basis for the protection of freedom of expression in the United States, and what types of expression are not protected under the law?
  - What are some key federal laws that affect online freedom of expression, and how do they impact organizations?
  - What important freedom of expression issues relate to the use of information technology?



# Why have freedom of expression laws?

- ▶ Muslims in France, Rohingya in Myanmar?
- ▶ Many diverse cultures, religions, sects, cults, groups in one country
- ▶ Often disagree with each other
- ▶ Criticize the government, or powerful
- ▶ Historians, film-makers, artists, intellectuals need to examine society and history



# US Laws: First Amendment Rights

- ▶ Right to freedom of expression
  - Important right for free people everywhere
  - Guaranteed by the First Amendment
- ▶ Definition of free speech includes:
  - Nonverbal, visual, and symbolic forms of expression
  - Right to speak anonymously

- 1978: Skokie Case, right to march



# First Amendment Rights (cont'd.)

- ▶ Not protected by the First Amendment
  - Perjury
  - Fraud
  - Defamation
  - Incitement of panic
  - Incitement to crime
  - “Fighting words”
  - Sedition



# Defamation

- ▶ Oral or written statement of alleged fact that is:
  - False
  - Harms another person
    - Harm is often of a financial nature
- ▶ Slander
  - Oral defamatory statement
- ▶ Libel
  - Written defamatory statement



# Freedom of speech laws: World overview

## India

All citizens shall have the right —

1. to freedom of speech and expression;
2. to assemble peaceably and without arms;
3. to form associations or unions;
4. to move freely throughout the territory of India;
5. to reside and settle in any part of the territory of India; and
6. to practise any profession, or to carry on any occupation, trade or business.<sup>[12]</sup>

These rights are limited so as not to affect:

- The integrity of India
- The security of the State
- Friendly relations with foreign States
- Public order
- Decency or morality
- Contempt of court
- Defamation or incitement to an offence<sup>[12]</sup>

## South Africa

1. Everyone has the right to freedom of expression, which includes
  - a. freedom of the press and other media;
  - b. freedom to receive or impart information or ideas;
  - c. freedom of artistic creativity; and
  - d. academic freedom and freedom of scientific research.
2. The right in subsection (1) does not extend to
  - a. propaganda for war;
  - b. incitement of imminent violence; or
  - c. advocacy of hatred that is based on race, ethnicity, gender or religion



# Freedom of speech: Pakistan

- ▶ Pakistan: bottom 10 countries in terms of freedom of speech
- ▶ There shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the:
  - Glory of Islam or
  - The integrity, security or defense of Pakistan or
  - Friendly relations with foreign States or
  - Public order, decency or morality, or
  - In relation to contempt of court, [commission of] or incitement to an offence.





# Freedom of Expression: Key Issues

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- ▶ Controlling access to information on the Internet
- ▶ Anonymity on the Internet
- ▶ Defamation and hate speech
- ▶ Corporate blogging
- ▶ Pornography



# Controlling Access to Information on the Internet

- ▶ Freedom of speech on the Internet is complicated by ease by which children can access Internet
- ▶ Communications Decency Act (CDA)
  - Aimed at protecting children from pornography
  - Broad language and vague definition of indecency
  - Found unconstitutional in 1997



# Controlling Access to Information on the Internet (cont'd.)

- ▶ Child Online Protection Act (COPA)
  - Applies to communication for commercial purposes
  - Imposes penalties for exposing minors to harmful material on the Web
  - Found unconstitutional in 2004
- ▶ Internet filtering
  - Software installed with a Web browser
  - Blocks access to certain Web sites deemed to contain inappropriate or offensive material



# Controlling Access to Information on the Internet (cont'd.)

- ▶ URL filtering
  - Blocks objectionable URLs or domain names
- ▶ Keyword filtering
  - Blocks keywords or phrases
- ▶ Dynamic content filtering
  - Web site's content is evaluated immediately before being displayed
  - Uses
    - Object analysis
    - Image recognition



# Children's Internet Protection Act (CIPA)

- ▶ Schools and libraries subject to CIPA do not receive Internet access discounts unless they:
  - Put in place measures to filter pictures that are obscene, contain child pornography, or are harmful to minors
  - Adopt a policy to monitor the online activities of minors
  - Adopt a policy restricting minors' access to materials harmful to them



# Anonymity on the Internet

- ▶ Anonymous expression is expression of opinions by people who do not reveal their identity
- ▶ Anonymity is even more important in countries that do not allow free speech



# Anonymity on the Internet (cont'd.)

## ▶ John Doe lawsuit

- Defendant communicates using a pseudonym or anonymously so identity of defendant is temporarily unknown
- Common in Internet libel cases
- Once John Doe lawsuit is filed, the company may request court permission to issue subpoenas
- ISPs frequently subpoenaed to provide the identity of anonymous “John Does”
- Anonymity on the Internet cannot be guaranteed



# Defamation and Hate Speech

- ▶ Hate speech that can be prosecuted includes:
  - Clear threats and intimidation against specific citizens
  - Sending threatening private messages over the Internet to a person
  - Displaying public messages on a Web site describing intent to commit acts of hate-motivated violence against specific individuals
  - Libel directed at a particular person





# Corporate Blogging

- ▶ Some organizations allow employees to create their own personal blogs to:
  - Reach out to partners, customers, and employees
  - Improve their corporate image
- ▶ Blogs can provide uncensored commentary and interaction
  - Criticism of corporate policies and decisions
- ▶ Could involve risk that employees might:
  - Reveal company secrets
  - Breach federal security disclosure laws



# Pornography

- ▶ The Internet has been a boon to the pornography industry
  - More than 4.2 million porn Web sites are accessible
  - The sites generate an estimated \$1 to \$7 billion a year in revenue
  - 72 million estimated visitors to porn Web sites monthly
  
- ▶ Individuals free to produce and publish what they want; however, if what they distribute is judged obscene, they are subject to prosecute
  - *California v Miller* set precedent for what is obscene



# Pornography (cont'd.)

- ▶ Numerous federal laws address child pornography
  - Federal offense to produce or distribute
  - Most states outlaw possession as well
- ▶ At least seven states require computer technicians to report child pornography on clients' computers
- ▶ Sexting is sending of sexual messages, nude or seminude photos, or sexually explicit videos over a cell phone
  - Fast-growing trend



# Questions

- ▶ You are running a blog
  - What laws apply to your blog?
  - What is its domain and jurisdiction?
- ▶ What happens if you do not regulate/censor users?
- ▶ What happens if you make 50 censorship rules?



# Questions: Which section applies when

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- ▶ A user on your blog uploads a rape video?
- ▶ A user on your blog lies about his qualifications
- ▶ A user uploads torrent links
- ▶ A user types “Hi” 5000 times
- ▶ A user posts a phishing link



# Questions: Which sections applies when

- ▶ Two groups argue and fight on your blog
  - You notice that it increases your traffic
- ▶ One group threatens to kill member(s)
- ▶ A convicted criminal starts using your blog
- ▶ On Twitter/Fb, you run a campaign claiming Pepsi cola causes lung cancer
- ▶ A member threatens to disintegrate his country



# Questions: Which section applies when

- ▶ A member threatens to disintegrate his country:
  - You disable his account
- ▶ A government/official wants this member's information?
  - Your blog's contract ensures protection of user's privacy
- ▶ The government/official moves court, court subpoenas information?

