



# Information Technology Engineering

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Module A.3

# **Freedom of Expression**

## Reference:

# Ethics in Information Technology

6th Edition

George W. Reynolds



## Chapter 5: Freedom of Expression

# Objectives

- 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**?

# Contents

## I. First Amendment Right

- Obscene Speech
- Defamation

## 2. Freedom of Expression: Key Issues

- Controlling Access to Information on the Internet
- Digital Millennium Copyright Act (DMCA)
- Internet Censorship
- Strategic Lawsuit Against Public Participation (SLAPP)
- Anonymity on the Internet
- Defamation and Hate Speech
- Corporate Blogging
- Pornography
- Fake News

# 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

# آزادی بیان در اسلام

یکی از شعب آزادی آزادی در بیان و قلم و اظهار نظر در مسائل اجتماعی و غیره است، و این مطلب در قرآن و سنت پیامبر معلوم و مشهود می باشد گرچه خلاف آن در جهان اسلام شایع و رایج بوده است و مسلمانان هیچ ارزشی برای این حق خود قائل نبوده اند و در احقاق و حفظ آن جدیت نکرده اند آزادی بیان در اسلام چنان حکمفرما بوده است که پیامبر اشخاصی را که با صراحت و هیچ پروایی حق خود را مطالبه و مواخذه می نمودند جدا می ستود و تشویق می فرمود چون می خواست این حکم را که ضامن تامین حیات با سعادت برای مسلمانان است در بین آن ها باقی بماند و تمام بشر در تمام اعصار به وجود آزادی، عدالت، و مساوات در شرع مقدس اسلام پی ببرند و هر صاحب حقی حق خود را شجاعانه و محابا طلب نماید زیرا عمده ترین اصل از اصول ترقی و تعالی وجود آزادی خصوصا آزادی بیان و قلم و مطبوعات است.

مبانی حقوق در اسلام، سید محمد جواد غروی، نشر جهاد دانشگاهی، 1377، مبحث حقوق دولت و ملت، بخش آزادی در بیان و احقاق حق

# First Amendment Rights

- Not protected by the First Amendment
  - Obscene speech
  - Defamation
  - Incitement of panic
  - Incitement to crime
  - Fighting words
  - Sedition



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# Obscene Speech

- Speech is considered **obscene** when
  1. Average person finds the work appeals to the prurient interest
  2. Work depicts or describes sexual conduct in an offensive way
  3. Lacks serious literary, artistic, political, or scientific value

Miller v. California (the 1973 Supreme Court)

# Challenges:

- The requirement that a work be assessed by its impact on an average adult in a community has raised many questions:
  1. Who is an average adult?
  2. What are contemporary community standards?
  3. What is a community? (This question is particularly relevant in cases in which potentially obscene material is displayed worldwide via the Internet.)

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# Defamation

- Publication of a 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

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# Controlling Access to Information on the Internet

- Freedom of speech on the Internet is **complicated by children's access**
- Communications Decency Act (CDA, 1996)
  - Aimed at protecting children from online pornography
  - The CDA imposed \$250,000 fines and prison terms of up to two years for the transmission of “indecent” material over the Internet
  - Broad language and vague definition of indecency
  - Found unconstitutional in 1997 (“the interest in encouraging freedom of expression in a democratic society outweighs any theoretical but unproven benefit of censorship.”)

# Section 230 of the CDA

- Was **not ruled** unconstitutional
- “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider”
- Provides immunity to an Internet service provider (ISP) that publishes user-generated content, as long as its actions do not rise to the level of a content provider
- In general, the closer an ISP is to a **pure service provider** than to a content provider
- **Protect social networking** companies such as Facebook and Twitter from defamation suits
- **Facebook Case:** presents updated list of stories



# Controlling Access to Information on the Internet

- Child Online Protection Act (COPA, 1998)
  - Applies to communication for commercial purposes
  - Imposes penalties for exposing minors to harmful material on the Web
  - “whoever knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors shall be fined not more than \$50,000, imprisoned not more than 6 months, or both.”
  - Found unconstitutional in 2004
- Internet filter
  - Software installed with a Web browser
  - Blocks access to certain Web sites that contain inappropriate or offensive material

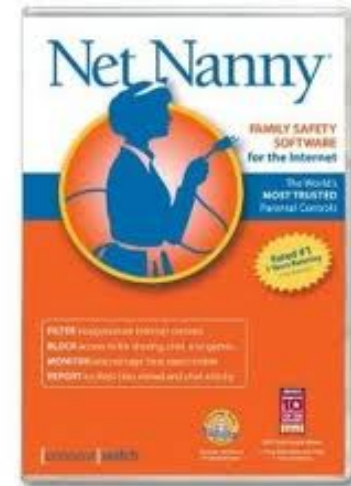


# Controlling Access to Information on the Internet

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

# Controlling Access to Information on the Internet

- Popular Internet filters
  - SpyAgent
  - Qustodio
  - ContentProtect
  - CYBERSitter
  - NetNanny
  - CyberPatrol
  - HateFilter



# Controlling Access to Information on the Internet

- **ISP blocking**
  - Blocking is performed on the ISP server
  - ClearSail/Family.NET prevents access to certain Web sites
  - **Topics to filter:** Bomb making, gambling, hacking, hate, illegal drugs, pornography, profanity, public chat, satanic activities, and suicide.

# Controlling Access to Information on the Internet

- **ICRA rating system**

- Internet Content Rating Association
- Questionnaire for Web authors
- Generates a content label
  - Uses Platform for Internet Content Selection (PICS) standard
- Users can configure browsers to read the label to block content
- Relies on Web authors to rate their site
- Complement to other filtering techniques



**Now: Part of Family Online Safety Institute (FOSI)**

## **Legal Overview: Children's Internet Protection Act (CIPA, 2000)**

- Federally financed schools and libraries must block computer access to
  - Obscene material
  - Pornography
  - Anything considered harmful to minors
- Schools and libraries subject to CIPA do not receive Internet access discounts unless they certify that Internet safety measures are in place
  - Required to adopt a policy to monitor the online activities of minors



# **Legal Overview: Children's Internet Protection Act (CIPA)**

- CIPA does not require the tracking of Internet use by minors or adults
- Acceptable use policy agreement is an essential element of a successful program in schools
  - Signed by
    - Students
    - Parents
    - Employees

# **Legal Overview: Children's Internet Protection Act (CIPA)**

- Difficulty implementing CIPA in libraries because their services are open to people of all ages
  - Including adults with First Amendment rights