

MULTIMEDIA TRAINING KIT

FREEDOM OF EXPRESSION AND FREEDOM OF INFORMATION HANDOUT

Developed by: David Souter

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About this document

These materials are part of the Multimedia Training Kit (MMTK). The MMTK provides an integrated set of multimedia training materials and resources to support community media, community multimedia centres, telecentres, and other initiatives using information and communications technologies (ICTs) to empower communities and support development work.

This module has been commissioned by the Association for Progressive Communications (APC) and conducted with support from the Swedish International Development Cooperation Agency (Sida).

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Module outline

This is the second of a series of training modules concerned with the relationship between human rights, ICTs and the internet. These modules are intended to help those who work on human rights and/or ICTs, and others with an interest in the issues, to understand ways in which the internet is affecting the enjoyment and protection of rights – now and in the future – and explore how these affect their work.

This module provides an overview of the relationship between the internet, freedom of expression and freedom of information. As well as this text handout, it includes a set of presentation slides, exercises and case studies, and a list of additional readings. It raises the following core questions:

1. What is the meaning of freedom of expression and freedom of information?
2. What limits are placed upon these in the international rights regime and how do they relate to other rights?
3. What has been the impact of the internet on opportunities to exercise freedom of expression and information?
4. What has been the impact of the internet on the relationship between these and other rights, including privacy?
5. What has been the impact of the internet on limitations to and violations of these rights?
6. How should rights professionals respond to the implications of the internet for their work in these areas?

Other modules in the series are concerned with:

1. An overview of human rights and the internet
2. Freedom of association and freedom of peaceful assembly
3. The right to privacy.

This handout begins by describing the context for discussion of freedom of expression and freedom of information.

- Section 2 summarises the meaning of freedom of expression and its place within the international rights regime.
- Section 3 summarises the meaning of freedom of information and its place within the international regime.

The handout then considers the interface between these two domains.

- Section 4 looks at ways in which ICTs and the internet have affected the exercise, enforcement and violation of these two rights.
- Section 5 summarises ways in which they have affected particular aspects of these rights and the relationship between them and other rights.
- Section 6 draws attention to some of the ways in which the exercise of freedom of expression and information may be or has been restricted or violated.
- Section 7 provides a brief summary of the above.

Freedom of expression

Freedom of expression plays a central part in the international rights regime (which is discussed in Module 1). The fundamental principle is articulated in Article 19 of the Universal Declaration of Human Rights (UDHR), as follows:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Freedom of expression rights are sometimes, accordingly, referred to as “Article 19 rights”. (Article 19 is also the name of a leading civil society organisation advocating freedom of expression.)

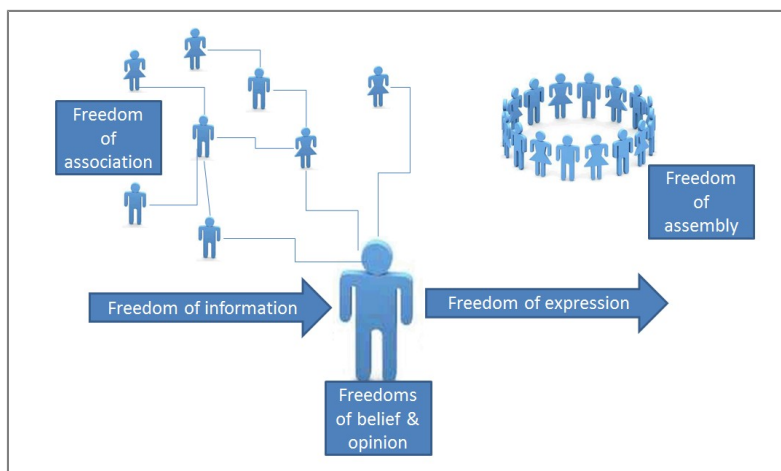
It is, however, the International Covenant on Civil and Political Rights (ICCPR) that has international legal status where the rights of freedom of expression and information are concerned. The wording of its definition, clause 2 of its Article 19, varies slightly from that of the UDHR, as follows:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Freedom of expression is one of a series of related rights concerning individual viewpoints which are conferred in both the UDHR and ICCPR. These are:

- Freedom of belief (“thought, conscience and religion”), including the right to manifest belief (e.g. through worship and teaching) (Article 18 of the UDHR and ICCPR)
- Freedom of opinion (Article 19 of UDHR, 19(1) of ICCPR)
- **Freedom of expression** (Article 19 of UDHR, 19(1) of ICCPR)
- The right of access to information (implicit in Article 19 of UDHR, 19(1) of ICCPR)
- Freedom of association (Article 20 of UDHR, 22 of ICCPR)
- Freedom of assembly (Article 20 of UDHR, 21 of ICCPR)
- Freedom to participate in political and public life, including democratic elections (Article 21 of UDHR, 25 of ICCPR)
- Freedom to participate in cultural life and to use one’s own language (Article 27 of UDHR, 27 of ICCPR).

Freedom of expression does not therefore stand alone, but is located within a series of rights which are concerned with holding, sharing and acting on opinions. The relationships between the majority of rights in this list are illustrated in Figure 1 below.



Freedom of expression is also often described as an “enabling right”, the availability of which enables people to exercise/enjoy other rights or to do so more effectively – including the rights listed above as well as economic, social and cultural rights such as those to health and education.

The provisions of the ICCPR have the status of international treaty obligations. As with other rights in the international regime, governments are required not only to ensure that they do not restrict the rights conferred by the regime (other than in accordance with limitations in the regime itself, see below), but also to ensure that they protect people against violations of their rights by others (non-state actors, businesses, other individuals). These obligations to respect, protect and promote freedom of expression are interlinked.

Rights are enabled and protected at national level through national law. Different interpretations of freedom of expression and the limitations concerning it therefore arise in different jurisdictions. One national interpretation of freedom of expression which is often cited in discussions of freedom of expression is that in the first amendment to the constitution of the United States, which was adopted in 1791, 159 years before the UDHR. This reads as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Other countries have different constitutional or legal interpretations of expression, many established since the UDHR and ICCPR were agreed.

Many factors affect the ability of different people to exercise freedom of expression effectively or equally, including access to communications networks and media, power and money. The owners and editors of newspapers, for example, have more ability to express their views to a wide range of people than do their readers; organisations and individuals that can pay for expensive media campaigns can reach and influence more people with their views than can the poor.

The international rights regime does not confer unrestricted freedom of expression. The UDHR and ICCPR include several articles which have the effect of balancing freedom of expression with other rights, notably the rights to fair trial (Article 10 of the UDHR and Article 14 of the ICCPR), privacy, “honour and reputation” (Article 12 of the UDHR and 17 of the ICCPR) and authorial rights (Article 27 of the UDHR and Article 15 of the International Covenant on Economic, Social and Cultural Rights). Article 3 of the UDHR and Article 9 of the ICCPR also establish and require governments to ensure the right to “life, liberty and security of person”.

The ICCPR sets out grounds for limitations to freedom of expression in clause 3 of its Article 19:

The exercise of the rights provided for in paragraph 2 of this article [see above] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
(a) For respect of the rights or reputations of others;
(b) For the protection of national security or of public order (ordre public), or of public health or morals.

These are consistent with the more general grounds for limitations of rights included in Article 29 of the UDHR (see Module 1). The UN Human Rights Council, in a general comment issued during 2011, took the view that these restrictions should be applied only when they are considered necessary for the purposes set out in clause 3 of Article 19 of the ICCPR, and that they should not be interpreted broadly (see Additional readings). In addition to this, Article 20 of the ICCPR prohibits “any propaganda for war” and “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”.

There are provisions in other international rights instruments which affect the scope of freedom of expression. For example, the Convention on the Rights of the Child (CRC) prohibits “the exploitative use of children in pornographic performances and materials”. The International Convention on the Elimination of All Forms of Racial Discrimination requires governments to declare unlawful “all dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination”. International law prohibits incitement to genocide and incitement to terrorism.

These limitations are at the heart of many discussions of the relationship between government, citizens and the legal framework for expression in national jurisdictions. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has reaffirmed that the general principle for interpreting the application of restrictions on freedom of expression should be that any such limitations are:

- a) Articulated in law
- b) In clear pursuit of the goals (a and/or b) set out in clause 3 of Article 19 of the ICCPR
- c) “Necessary and proportionate” for that purpose
- d) Transparent and subject to appeal.

In practice, the application of rights takes place in contexts which differ significantly from one another, for example in political stability and cultural traditions. Interpretation of “the just requirements of morality, public order and the general welfare in a democratic society” has varied over time and in different societies. Risks to and from public order, for example, may be considered much greater in societies emerging from civil conflict (such as Rwanda in the mid-1990s) than in longstanding democracies such as Sweden. Cultures and national legal regimes have varied widely in their understanding of “the just requirements of morality”.

One critical issue for governments and courts in interpreting restrictions and these guidelines concerns the timing of any restriction – for example, whether governments can or should prevent incitement to genocide or access to child sexual abuse images by prior (*ex ante*) censorship or merely address it by criminal action after the fact.

The UN Human Rights Council has adopted the principle that rights, including freedom of expression, should be equally applicable online and offline. This principle, naturally, applies both to the right of expression itself and to the limitations placed upon it. The impact of the internet on these rights and limitations, and the implications of that impact, are discussed in sections 4 and 5 below.

Freedom of information

The term “freedom of information” does not explicitly appear in the international human rights regime, but is inferred from Article 19 of the UDHR and of the ICCPR, and is also considered necessary for the fulfilment of other rights. The UN Human Rights Council has also referred to a “right of access to information” in a general comment issued during 2011 (see Additional readings).

As part of freedom of opinion and expression, Article 19 of the UDHR confers the right to “seek, receive and impart information and ideas.” Article 19 of the ICCPR likewise states that freedom of expression “shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers [and] through any media.”

In this context, the seeking and receiving of “information and ideas” (often referred to today as “content”) constitutes freedom of information, in the same way that imparting information and ideas constitutes freedom of expression. Freedom of expression allows anyone (individual or organisation) to say, write or publish anything s/he chooses, subject to the limitations allowed within the rights regime. Freedom of information, meanwhile, conveys a right of access to existing content, of whatever kind is available and desired, again subject only to the limitations allowed within the rights regime. This existing content, importantly, includes content generated outside the jurisdiction of the recipient’s government – “regardless of frontiers,” as stated in Article 19.

The term “freedom of information” is also used more narrowly, in connection with particular kinds of information or ways in which information can be accessed.

Firstly, it is used to refer to public access to information which is held by governments or other organisations, including (but not necessarily only including) that which is of public interest or value, which is necessary or useful for participation in public life (Article 25 of the ICCPR) and which enhances transparency and accountability. In its General Comment No. 34 of 2011, the Human Rights Council takes the view that this should apply to information held by public bodies and other entities carrying out public functions. Many governments have now introduced freedom of information or open data legislation which enables public access to information (sometimes including private information produced with support from public resources), with restrictions concerning security and personal data.

Secondly, the term is used to refer to access to information which is held about individuals by governments or other organisations, including the right to correct such information. This is related to rights of privacy (Article 17 of the ICCPR).

Finally, the term is used by some advocates of intellectual property (IP) reform to refer to the removal of copyright, patent and trademark constraints which are based in international IP law. This usage should be distinguished from those above as authorial rights are included in Article 15 of the ICCPR’s companion convention, the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The impact of the internet on freedom of expression and information

It is generally agreed that the internet has had profound impacts on the ways in which freedom of expression and information can be enabled, enjoyed and violated. Rights professionals agree that the net effect of the internet has been to extend the ability of people to exercise and enjoy the rights to expression and information which are set out in the rights regime.

Firstly, the internet has greatly extended the range of opportunities for freedom of expression, by making it possible for anyone with internet access to publish information, opinion and other content to a global audience. The most important tools for this have included listservs and bulletin boards, email and instant messaging services, websites, blogs and social networking services (such as Facebook and Twitter). The technical resources required for online publication are readily available, and the costs incurred are low or very low.

Article 19 of the ICCPR refers to rights of freedom of expression and information being exercised “through any media” that people choose. Although the internet itself did not exist at the time these rights instruments were agreed, this has been taken by UN special rapporteurs and rights advocates to mean that these rights automatically extend to any new media, such as the internet, which have become available since then.

Secondly, the internet has greatly extended the range of opportunities for accessing content that is available to internet users, from content which was physically available to them in their geographic locations (print and broadcasting) to content which is digitally available from any source worldwide, usually (though not always) at no (or virtually no) cost. The internet has become the world’s library.

These two developments have led to much greater opportunity for expression and access to information/content than was possible before the internet, and have made it much more difficult for governments and non-state actors to suppress content, for political, moral or other reasons (regardless of whether restrictions are permitted by the rights regime). Not surprisingly, governments and non-state actors that wish to restrict expression and

information (either in accordance with permitted restrictions or more extensively) have sought new ways of doing so, some of which are discussed in section 6 below.

These developments have many implications, and it would be useful for participants in this training module to reflect on how their own societies have been affected by them, over the past ten or twenty years, before a training session. There is space here to point out three general implications, from among a number that could be cited, concerning the ways in which people relate to information and communications.

The first is that the internet has greatly increased the **plurality** of information and expression in the public sphere, the “space” in which people can express their views and contest for influence with one another. Before widespread literacy, the most important space for public discourse would have been local – a town square or market place, for example, where groups could engage with one another face to face. In the 20th century, that role was gradually replaced in most societies by national mass media – such as published newspapers and broadcasting – which mediated between individuals and their audiences (and gave considerable power to those intermediaries). The internet today has enabled the globalisation of public spaces (alongside national and local debate) and made it much easier for more voices and more ideas to be expressed than was possible through traditional publishing and broadcasting.

A second implication concerns the **globality** of the internet environment. In the past, governments had considerable power to restrict information, opinion and other content within their own borders. The internet, however, is a supranational medium, with little national or international governance. Internet users can, at least in principle, access content which is held in any territorial jurisdiction, including content which is illegal in their own country. They can also use internet service providers (ISPs) in other countries to publish content which would be illegal or dangerous for them to publish in their own country, and can do so anonymously or pseudonymously. On the other hand, it is also more difficult for them to control the audience which accesses content that they publish. Content which would be innocuous in their own country can have profound impacts on a global audience, for example, if it causes religious offence.

A third implication concerns the **validation** of expression. The availability of vastly more content, from far more sources, makes it more difficult for internet users to judge the reliability of information which they access. Some commentators have suggested that the superfluity of content encourages some people to stay within their comfort zones rather than to explore the greater plurality of opinion which has become available. Others have suggested ways of rating or ranking online content as a means of improving validation and trust.

The ease with which it is now possible to publish information and other content offers new platforms for hate speech and harassment, rumour and deception, as well as for factual information and democratic politics. As with privacy, people need to become used to new parameters in judging the information and other content which becomes available to them online.

The impact of the internet on specific types and issues of expression and information

The following paragraphs draw attention to illustrative issues in which changes in access to expression and information resulting from the internet have been controversial, or raised problems of interpretation, relating these to aspects of the rights regime described in sections 2 and 3.

Much of the discussion about freedoms of expression and information – on the internet and elsewhere – is concerned with **political content**, in particular the expression, dissemination and promotion of dissenting views. The internet is widely thought to have played a significant part in recent political uprisings in a number of countries, including the revolutions in Egypt

and Tunisia, by enabling the wider sharing of political dissent and facilitating the organisation of protest (see Module 3). Many observers think it is also gradually undermining the power of the state in countries with authoritarian regimes such as Iran and China.

Freedom of political expression is clearly protected by the human rights regime, and the UN Human Rights Council has made it clear that this is equally applicable to political expression on the internet. It is nevertheless the case that many governments seek to restrict political expression, and that they have been keen to do so on the internet. Some of the mechanisms which have been used for this are described in section 6. In such contexts, the internet has become the most significantly contested area of free expression. Ways of protecting freedom of political expression on the internet should be a principal issue for discussion by participants using this module.

Content on the internet is, of course, hugely diverse. Only a small proportion of it is political. Much more is personal or commercial, and some falls into categories which raise challenges concerning other rights, existing legal frameworks or social norms. The following paragraphs illustrate four examples of these which could be discussed in group discussions during the module.

Among the most widely discussed issues are those concerned with **child sexual abuse**. Images of child sexual abuse are prohibited in international law. The exploitation of children for pornography is outlawed by the CRC and also, children's rights advocates would argue, violates children's rights to privacy. Images of child sexual abuse therefore lie outside the protection of Article 19; indeed, governments are required by Article 34 of the CRC to act to prevent "the exploitative use of children in pornographic performances and materials". The internet has become the principal means of distribution of child sexual abuse images in recent years. Some governments have sought to impose mandatory blocking and filtering of content, particularly (but not necessarily only) on images of child sexual abuse, while others have encouraged self-regulation by ISPs.

It is important to distinguish between child sexual abuse images, which are outlawed in the international human rights regime, and adult pornography, which is not directly addressed in the regime. Some types of adult pornography (for example, images of rape) are restricted by legislation in many countries, while some governments consider that pornography in general falls within the "moral order and general welfare" provision of Article 19 of the ICCPR. Because the internet is a global medium, however, and has very low publication costs, it has become the principal means for distribution of pornography worldwide, where it is effectively beyond the control of national law. This has resulted in governments considering or using blocking and filtering techniques.

A second illustrative issue concerns **intellectual property and authorial rights**, which are protected under Article 15 of the ICESCR. The internet makes it easy for users to download audio and video files, software applications and other digital content, which is legally covered by copyright, either from sites based in countries that do not recognise or enforce copyright or through peer-to-peer networks. This undermines the established business models of media corporations and reduces the earnings of independent performers who charge for their output. Media corporations and some governments have sought to legislate against file sharing and websites which facilitate file sharing, to block access to such websites and to prosecute site owners. Many internet activists argue that this violates the freedom of information principle in the rights regime and/or see file sharing as part of legitimate opposition to intellectual property rules.

A third example concerns incitement to **discrimination, hostility or violence** on grounds of race or religion, which is prohibited in Article 20 of the ICCPR. Incitement, discrimination, hostility and violence are all terms which can be interpreted subjectively by national governments and law enforcement agencies. Interpretations of freedom of expression rights by UN Special Rapporteurs and the UN Human Rights Council have made clear that Article 19 protects expression which is considered "offensive", for example to religious belief; and have also required that a clear connection should be demonstrated between expression which is considered problematic and a discriminatory or other negative outcome within the

rights framework. The Human Rights Council has said that restrictions resulting from Article 20 of the ICCPR should also comply with clause 3 of Article 19. Some groups affected by expression of this kind – including ethnic, religious and sexual minorities – have sought less liberal and more protective interpretations, including *ex ante* protection against incitement.

The internet has also changed the parameters of **defamation**. Article 12 of the UDHR and Article 17 of the ICCPR protect individuals against “attacks” (UDHR) or “unlawful attacks” (ICCPR) on their “honour and reputation”. Freedom of expression professionals generally argue that civil rather than criminal law is appropriate for enforcement of this right.

The internet has greatly extended opportunities for people to make attacks on others’ “honour and reputation”, because publication on the internet is not mediated by editorial control (as it is in mass media), because there are many more opportunities for self-publication, and because self-publication can be anonymous or pseudonymous. The UN Special Rapporteur on freedom of expression has argued that defamatory attacks are less significant on the internet because it is possible for victims to respond in like manner on the internet themselves. On the other hand, victims may well be unaware of defamatory attacks, which will remain accessible – for example, through search engines – to future employers, partners and others indefinitely, and may find it impossible to secure comparable visibility for their rebuttals to that achieved by the attacks on them.

Attitudes towards restriction of content on the internet in areas like these vary greatly. Some internet and freedom of expression activists argue that all restrictions on content infringe individual rights and so are inadmissible. Rights professionals interviewed by APC in 2012 generally recognised the restrictions permitted by the rights regime, and the need to balance freedom of expression with privacy and other rights. The Special Rapporteur and the Human Rights Council take this view, emphasising however that restrictions should be interpreted narrowly and subject to statutory constraints. Those concerned with children’s rights often take a stronger line where child sexual abuse is concerned. As well as images of child sexual abuse, they are also concerned about grooming, bullying and harassment on social networks, and about websites encouraging eating disorders or child suicide. Most governments are concerned with consumer rights, fraud prevention and criminal activity as well as child protection, recognising their responsibilities to protect their citizens against abuse. Some governments are also concerned about maintaining cultural identity – for example, in Islamic countries – or with the suppression of political dissent.

The boundaries between these different views are not always clear-cut. They intersect with different political systems, laws, social norms and cultural values. The scenarios associated with this module are intended to help participants to explore their implications for their own contexts.

Restrictions and violations of freedom of expression and information on the internet

As noted above, the net impact of the internet has been greatly to expand freedom of expression and information. In some cases, this has raised issues concerning the relationships and balances between freedom of expression/information, other rights within the international regime, legal frameworks and social norms. The internet has also facilitated the expression of dissent in both democratic and authoritarian political systems.

Governments and law enforcement agencies have sought to use a number of different means to address these issues. The following paragraphs briefly identify some of these mechanisms.

The internet is a global network of networks, which is very difficult to subject to national control. Nevertheless, some governments have sought to do this. In some cases, during political crises, governments have sought to block access to the internet altogether, either by closing ISPs or closing the telecommunications network. However, this is clearly a desperate measure which is only likely to be used *in extremis*. More common are attempts by

governments, such as those in China and Iran, to restrict access to the internet within their countries through government-controlled gateways. This allows them to restrict access to content, websites and/or applications (such as social network services) which are not approved.

Few governments have so far sought to impose blanket controls on internet access. However, more have sought to block specific websites or parts of websites which are deemed unacceptable. In some cases, but not necessarily, governments can claim that they are acting in line with restrictions permitted under Article 19 when blocking websites.

Blocking of this kind can be used against sites which are overtly political, against news sites which include content that governments do not want reported in-country (such as the sites of the BBC or Al Jazeera), against sites which are deemed contrary to cultural norms (such as sites considered “anti-Islamic” or as advocating apostasy in some Islamic countries), or against sites which are deemed to be illegal (such as those promoting copyright-free downloads or distributing pornography). In some cases, governments have blocked global social networks, such as Facebook, Twitter and YouTube, because of the availability of specific content on these, while in others they have sought to reach agreement with the owners of these sites that specific content will not be made available to users of their national domains.

An alternative to blocking of websites is the filtering of web content to exclude particular types of material, using keywords or other indicators of what should be excluded. Filtering can be implemented at many levels within the internet, by ISPs and search engines as well as governments, and can be used against content of many different kinds including those mentioned in the previous paragraph. Many governments and ISPs also encourage parents to use filtering software in order to protect their children against “inappropriate” content on home computers and mobile phones. Filtering is a relatively crude form of censorship, as it relies on indicators (text or images) rather than assessment of specific content: it does not reliably exclude what is considered offensive, and can exclude content which would be deemed acceptable. Like blocking, filtering is generally opposed by freedom of expression activists.

ISPs and online service providers (OSPs) are critical intermediaries in enabling content to be expressed and accessed on the internet. Most ISPs and OSPs are private sector businesses, and some have business models which make advertisers rather than users their primary consumers. Governments and law enforcement agencies that wish to block or filter content generally need to do so by agreement with ISPs and OSPs. This requires private companies to act as law enforcement bodies, something which has generally been considered inappropriate in the human rights regime, which confers enforcement rights and obligations on governments. In some countries, they perform a similar role through self-regulatory agreements: in the United Kingdom, for example, the self-regulatory Internet Watch Foundation monitors images of child sexual abuse on behalf of ISPs so that they can block access to these and report them to law enforcement agencies.

ISPs and OSPs cannot meaningfully monitor the content which they make available to users. Although some governments have sought otherwise, it is now generally accepted that internet intermediaries cannot realistically be held liable for content of which they are unaware. Some governments, however, and some self-regulatory agreements operate on the basis of “notice and take down” arrangements, which require ISPs and OSPs to remove content (such as copyright material or images of child sexual abuse) and/or close specified websites once they are notified that they are infringing laws or regulations.

ISPs and OSPs, including search engines and social network services, may impose their own restrictions on content which they make available, as may internet access points such as libraries, schools and cybercafés. Some internet activists have argued that search engines and public access points should not block any content to their users, and this position has received some support in US legal judgements. Others argue that search engines and social networks need to be responsive to their users, who may have widely differing views, and that schools and other access points should not be required to provide access to material they consider inappropriate or offensive to other users.

Finally, while surveillance is more obviously an issue concerned with privacy (Module 4), it should also be recognised as a mechanism restricting freedom of expression and information, not least because it has a chilling effect on people's willingness to access content that may lead to their surveillance. Governments and law enforcement agencies use a variety of surveillance methods to address a variety of problems offline, from speeding on the roads to criminal activity, money laundering and threats to public safety. Many governments have sought to extend surveillance capacity to the internet, where it can be substantially more intrusive, because it is more difficult for people to cover their tracks online and because "suspicious" behaviour can be detected by algorithms rather than individual observation. Online surveillance of this kind can be used to monitor and harass opposition politicians, political and social activists, and members of ethnic and sexual minorities, as well as criminals or those suspected of accessing or distributing images of child sexual abuse. It requires the cooperation of ISPs, which hold their users' data, and can be used to deter behaviour as well as identify those who are perceived as threats.

Summary

Freedom of expression and information are fundamental human rights, which play an important part in enabling people to exercise other rights within the rights regime. They are not, however, unrestricted freedoms. There are important questions of balance between them and other rights, such as privacy, and the rights regime allows a defined range of restrictions to them, including where governments can demonstrate that this is required for public order or social welfare.

Freedom of expression and freedom of information have been greatly enhanced by the internet. It is now much easier and cheaper for people to access information and opinion, from any source, than it has been before. It is also much easier and cheaper for them to distribute information and express opinion than before. This is a substantial net gain from a rights perspective.

The internet has also affected the balance between freedom of expression and other rights, making it easier, for example, for governments, businesses and others to violate people's privacy and for individuals to attack others' "honour and reputation". It has also changed the parameters for discussion around child protection. Interpretations of public order and social welfare vary between countries.

Governments have found it difficult to sustain traditional boundaries around freedom of expression and information in the internet age, whether for purposes allowed within the rights regime or for political repression. They have sought to use a number of different mechanisms to achieve this, which have been opposed by freedom of expression activists.