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No Frontiers? Free Speech and the Internet

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Privacy, the individual and the Internet

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Turn on a laptop, type in the secret password and, within seconds, you are in your own private domain, free to say and do what you want, in control and beyond reach. Logging on to an exclusive world seems to have a deep and widespread appeal. Yet there is no guarantee of privacy; cyber-secrecy is something we really want to believe in; but it is a myth; powerful, seductive and largely untrue.

We can easily expose ourselves inadvertently, simply by mistaking the 'reply to all' icon for 'reply'. Employers have sacked those who send salacious emails. Since 2004 police and intelligence services have been able to request that phone companies and internet service providers supply the location of a caller, texter or web surfer - but not, crucially, the content. Now Jacqui Smith is considering asking a private sector company to manage a database that will track everyone's calls, emails, texts and internet use, although content will again be exempt. Could any government keep such a database secure? Technological failure, as well as deliberate leaks, might easily make private information available to the public.

Through 'cookies' dropped into your computer, Google is able to record your name, password, and every search that you make for a period of nine months; after this the data is kept anonymously. Google's Desktop tracks whatever is stored on your computer, and if you use Gmail your correspondence is analysed for key words. With all this personal information Google is able to send you carefully targeted advertisements; if you are searching on-line for a house to buy, would you object to the advertisement of a real estate agent? Or if you wanted to give a surprise present to a loved one, would you object to advertisements for lingerie? Do such intrusions into our privacy for commercial purposes raise our hackles, or are we grateful for the highly personalised service? In 2007 Facebook introduced 'Beacon' a system that allowed retailers to send news of your on-line purchases to all your Facebook friends. It was hoped this would fuel buying crazes amongst young people; in fact, Facebook users were outraged. Google currently has more power than governments in the control and monitoring of internet use; its data is not handed over to the authorities in the US or UK.

It is possible for individuals to fight back. Google users may select an opt-out button which deletes the cookies. 'Mailinator' allows us to create a temporary, invisible email address, so we keep our on-line purchases a secret. We may create a fake hotmail identity; surf the web anonymously through a site called 'Proximity'; or send an SMS from a false origin.

Even if we know how to be more technologically savvy, do we generally care enough to protect our privacy? Like wine and shy people, the internet may have an uninhibiting effect. People seem quite happy to surrender their personal information on-line, through Facebook, in using Google and so on. Has our concept of privacy changed, or does the internet bring out a new recklessness in people? Perhaps this is a generational phenomenon, with young people being more willing to let it all hang out; will they regret their indiscretions as they get older? Or are we all seduced by the paradox of a private, yet public, forum; a sort of undemanding intimacy? Perhaps cyberspace has created a new way of belonging, of being in a community. Now we might offer up our private selves to those we will never meet, or we may create a new persona for ourselves and convince others of our fiction; there need be no relation, it seems, between who you are on and off-line. Research suggests that people

are, depending on their inclination, either more altruistic, or more vindictive, when on-line. In a virtual world that is seemingly amoral people's true moral character, or lack of it, is revealed.

Are we, ourselves, culpable or commendable for the vices and virtues of our on-line persona? Is a 'privately' committed crime in the realms of cyberspace of equal weight as crime in the real world? J. S. Mill wrote that a state should only intervene when there is behaviour that harms others, but if an individual only reads or looks at unsavoury material on-line, without acting on it, they are not harming others. If an individual wants to use the internet to live, for a time, in their own fantasy world of extremely pornographic or violent images, which are only simulated, does this harm others? Alternatively, if someone downloads child pornography, does this necessarily harm an actual child? Of course the law says that this person would be guilty of a crime. In downloading child pornography and paying for it with a credit card criminals are supporting those who originally created the photographs of real children being abused; and they are entering into a network of those with similar inclinations which may require a trade in images. The private, indeed, the alluringly *intimate* world of the network gives support, and thus a twisted kind of validation and vindication to deviant behaviour.

Terrorists use websites to recruit and propagate dissent among the disaffected. While earlier groups, ETA or the IRA, could use only local newspapers, or word of mouth, to disseminate their information, today's terrorists have the advantage of the internet - cheap, seemingly private and smart-looking - for propaganda purposes. Research has suggested that terrorists do not use encryption to scramble the contents of their on-line messages anymore than the rest of the population; like most, terrorists generally rely on the assumption that their own communication will be lost in the mass. With the use of the internet, individuals and groups, devoted to destruction, now have the means to operate across continents; cyberspace has enabled global terrorist networks. And, in response, police are now operating more closely with intelligence agencies, accessing the same on-line information to arrest and detain anyone they think likely to commit a terrorist crime. Although police action can increasingly be directed towards suspected terrorists, neither the UN Security Council, nor the EU, has yet found a widely accepted definition of 'terrorism'.

Yes, cyberspace crime is a weighty matter but, interestingly, in some circumstances, the law takes account of whether there is a wide and growing on-line network, whether the internet is actually spreading what is malicious. In relation to defamation, the law draws a distinction between slander, which is an allegation spoken or transmitted in some transient way, and libel, which is defamation published in a more permanent form, such as newspapers, books, radio, television and theatrical plays. An allegation of slander will generally go to trial only if it is possible to prove some actual financial damage or loss; for libel the damage is simply presumed. In one recent case the claimant, who ran a shareholder action group, sued over defamatory comments about him posted on an internet bulletin board. However the judge thought that as discussion and bulletin boards were usually read by only a small number of people with an interest in the subject matter, and that as contributions to such discussion boards were likely to be made in a casual, conversational way, the insulting messages were more akin to slander than to libel. Even though it is theoretically possible for an internet site to be visited by anyone, the law will not always assume a widespread readership. Evidence is increasingly required. Some on-line rants are regarded as casual and ill thought out, to be read in a context which means they become less interesting to the legal system, particularly if they have very limited circulation. That is not to say, however, that message board allegations would always fall short of a libel claim; more serious online allegations still have the potential for being libelous.

Sometimes what is written on-line, in private, remains so because it is boring to the rest of the cyberspace population, also pursuing personal satisfaction. Freedom of expression on the internet is a worthy ideal, yet it may take a rather paltry form; the danger of being an on-line blogger is that you might just seem like a disgruntled loon. Who really cares what the vast majority of other bloggers think? In an influential essay entitled 'Attention Shoppers' Michael H Goldhaber argued that in our digital media economy, where our time is limited, but information available on the internet is infinite, intelligent writers will have to win a Darwinian struggle for our attention. Revealing our private selves on-line may be a driving, obsessive preoccupation, but with so many people becoming exhibitionists, there is the danger that the internet, and perhaps our lives, become swamped with tittle-tattle.

Arguably, it is the power of one's personality and abilities in real time that earn one an on-line voice worth listening to. A blogger may bark about an issue, but a good writer convinces the reader. Even a website depends for its success on real talent. The *Huffington Post* was recently named the world's most popular and influential on-line news site; it has 5.5 million monthly viewers, and \$6 – 10 m of annual revenue, derived from blue-chip advertising. Behind its unique success lies a woman, Arianna Huffington, who has a genius for getting attention, and exploiting her extraordinary network of influential friends. The likes of Norman Mailer, Richard Dawkins, Nancy Pelosi, Mia Farrow, John Cusack and others write, for free, on the *Huffington Post*. They get publicity; the *Huffington Post* gets readers and advertising revenue. Yet, crucially, without real celebrity-status contributors, and their access to reliable information derived from journalists working for traditional newspapers, the phenomenal success of the *Huffington Post* would not have come about. The internet's ability to seduce us depends on the strength of its links with real lives; power comes from personalities, not from the technology alone.

The internet can empower individuals, but not just by allowing the belief in a private on-line persona. It enables the creation of new communities, which can reassure, inform, and inspire us. If, for example, I wake up, in the night, terrified, night after night, I can turn to my laptop, type 'night terrors' into Google, and find websites giving information, advice and shared experience from other sufferers of this disorder. On-line communities may, sometimes, contribute to influence in the real world. Hillary Clinton, Barack Obama and John McCain all saw the need to harness the internet in their recent Presidential campaigns; why Obama's on-line network snowballed so much more effectively is a complex question. In the end, a record-breaking number of people donated small amounts, through the internet, to Obama's campaign, and joined an enormous community of supporters linked by his social networking sites.

Beyond the formation of groups based on shared interests or political outlooks, the internet gives each individual the opportunity for greater freedom of expression. On-line freedom of expression can easily mean exhibitionism, or be just a game played by those who have nothing at stake except their own amusement. Yet the internet can also be seen as giving new opportunities to write freely and express ourselves creatively. Ours is not a totalitarian society, yet the demands of daily life – the need for professionalism, practicality, political correctness, or even, perhaps, an obsession with a private internet persona - may all, subtly, constrain us. It is our capacity for freedom of thought and expression that makes us understand more, be more engaged with others, feel more fully alive. The internet offers us a chance to turn what is merely private into a more personal way of relating to others.

Yet we cannot act truly freely unless we have good knowledge of how, and what, our interlocutors' may know about our private lives; unless we understand and defend the fact that privacy supports our uncoerced freedom to act. Privacy is a public good; its reduction diminishes our lives and the quality of our relationships. But it is our responsibility to protect our private selves; privacy will never just be granted, simply, as a right. The internet is empowering, but it can also, easily, be debilitating. Beyond being more technologically savvy, do we need to protect the meaning we give to our own private lives from the often trivial, sometimes demeaning, gossip of others' lives that bombards us on the internet?

This piece was inspired by a Cumberland Lodge Conference: *No Frontiers? Free Speech and the Internet*. Cumberland Lodge seeks to promote discussion on social, moral and ethical issues. However, the specific views expressed in this piece are those of the author alone. For comment please write to the author at: sandra@cumberlandlodge.ac.uk