

LEGAL STUDIES

Limitation on Free Speech

What is the issue/Where is it happening:

According to Article 19 of the Universal Declaration of Human rights (UNDHR) (1948), '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.' However, the issue of free speech is still present internationally, especially in China.

China restricts its citizen's freedom of speech because it is a communist society where the individual's best interests are indistinguishable from the society's best interest. In the current Chinese constitution "Citizens of the PRC have freedom of speech, publication, assembly, association, procession and demonstration." Despite this, China strictly controls its media, forcing all published information to be from official sources and investigates them before allowing them to be visible to the state and additionally restricts public protests and the worship of certain religions. This goes against article 19 of the UNDHR.

The invention of the worldwide web has given Chinese people the opportunity to voice their opinion on any range of topics. However, China has implemented censorship policies restricting free speech in the digital realm. Even though Australians are enjoying free access to anything online, Chinese people are not granted the same right because of these censorship policies. Even though the actual policies are unclear, it is well known that the 'Great Firewall of China' blocks popular websites like the photo-sharing site, Flickr and selected MySpace pages. Because technology moves so fast, the government banned access to those sites once they already became available to the public. This ban on popular sites has created backlash in China because people are now realising the filter conducted by the Chinese government. These bans are a form of limitation on individual free speech in contemporary society. Unfortunately for Chinese people, their governments' filtering and censorship program is regarded as the most sophisticated and effective in the world. It includes 30,000 censors often provided by foreign companies like Google and Yahoo who are required to censor their results or be censored themselves.

What is being done about the issue?

Domestically:

In practice, the right to freedom of speech is not absolute in any country and the right is commonly subject to limitations, such as on libel, slander, obscenity and incitement to commit a crime. However, the citizens of China are attempting to make this right to freedom of speech a law. According to 'Voanews' a recent 'China Free Speech Protest' was conducted on January 08, 2013 about 'a local dispute about government censorship spilled over into a nationwide online protest'. In this protest 'Hundreds of demonstrators called for the resignation of the provincial propaganda chief after censors blocked a New Year's editorial urging greater constitutional rights and replaced it with another praising the party's achievements'. The government has responded by enforcing harsher rules for those who post things on the internet if they aren't licensed to do so.

Internationally:

Not much can be done about 'Freedom of Speech' internationally due to State Sovereignty. However, on July 6 2012, the United Nations Human Rights Council (UNHRC) officially declared free expression on the Internet a basic human right when they stated "Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are,

in turn, essential for the promotion and protection of human rights”, according to Article 19: ‘freedoms of opinion and expression’. The non-binding resolution puts pressure on nation states around the world to protect free speech online, but does not require them to do so. China expressed certain reservations at first, but ultimately backed the resolution. At this point however, China has not reformed their laws in accordance to the resolution.

Non-government organizations:

The only Non-Government Organization that has been working extremely hard for the people of China is Amnesty International, which states that China “has the largest recorded number of imprisoned journalists and cyber-dissidents in the world”. Since 2002, Amnesty International has engaged with tech companies such as Yahoo!, Google and Microsoft on Internet censorship through multi-stakeholder initiatives, legislative advocacy and shareholder activism. They also developed a ‘Uncensor China campaign’ in December 2008 with the aim of giving Chinese people more freedom of speech, through reminding the Chinese Government, the International Olympic Committee and the world of China’s human rights commitments. However, China did not deliver on its promises, despite reminders as the Olympics approached. Amnesty international are continuing to develop programs to help Chinese people’s oppression from freedom of speech even though they missed the deadline of the Olympics.

Effectiveness of legal responses:

The legal responses to the issues such as the actions of the United Nations have been somewhat effective in achieving the right to freedom of speech online. This can be seen through China’s response to the UN’s declaration of free expression on the internet, where Xia Jingge, China’s envoy to the U.N, stated “We believe that the free flow of information on the Internet and the safe flow of information on the Internet are mutually dependent”. She also said “As the Internet develops rapidly, online gambling, pornography, violence, fraud and hacking are increasing its threat to the legal rights of society and the public.” Therefore, this does show an improvement in China’s attitude to their limitation on free speech but there is still much more progress that needs to occur. Internationally however, the UN has been extremely effective in achieving the right to freedom of speech among other countries.

Effectiveness of the non-legal responses:

Domestically, the protestors have been effective, shown through China’s incoming leader Xi Jinping’s response to the issue, as he has called for the government to be more transparent. Additionally, Chinese celebrities, journalists and other public figures have applied pressure on the government by expressing their support for things such as newspapers through social media. However, the Global Times stated that China is “unlikely to have an absolutely free media that is dreamed of by those activists”. And, as a result of these protests, the Government has made Amendments to the ‘Regulations on the Administration of Publications’ with a requirement that those who distributed publications over the internet or information networks must be licensed, or risk criminal penalties. The authorities also shut down or took direct control of a number of publications that had published investigative journalism pieces on ‘sensitive’ issues. They reportedly banned hundreds of words from mobile phone text messages, including “democracy” and “human rights”. This shows the ineffectiveness of the protesting. In order to be effective, Chinese people should possibly do small protests around the country rather than one really large one.

Additionally, Amnesty International also achieved some justice through their Uncensor China Campaign. They achieved new media regulations allowing easier access for foreign journalists as well as the unblocking of the Amnesty website where 14,251 people visited the site after three days. Also, Microsoft, Google and Yahoo! Have signed a set of principles for Conduct and Yahoo! has established a Human Rights Fund.

Therefore, although there have been many setbacks due to the oppression of the Chinese people, the people of China with the help of Amnesty International has achieved little amounts of justice and will continue to do so. Due to the Governments more restrictive legislations, Amnesty International states that the people need to “continue to encourage China’s government and authorities to embrace and act on the principles of press freedom”. This should also extend to individual freedom of expression either on the internet or in the form of public demonstrations.