



A conspiracy to curtail Internet culture

Cyber Rights - Defending Free Speech in the Digital Age, *Mike Godwin*, Times Books, Random House, 1998

Mike Godwin is described as a 21st century crusader for free speech, and his book delivers on the expectation that this image conjures up - that of a swashbuckling hero defending the rights of ordinary citizens in the new frontier of cyberspace. Such a racy approach certainly kept me engaged as we swept through the legal minefields of copyright, libel, privacy and online pornography, the pace maintained by headings such as "Keeping the Feds at bay" and "Goliath decides to settle".

Godwin is online counsel to the Electronic Frontier Foundation, an organisation committed to free speech in cyberspace. He describes his job as to "explain (and sometimes to guess) how a centuries old system of law will shape discourse, relationships and commerce in the newest mass medium - cyberspace".

His "unbounded allegiance to the First Amendment" underpins his description and analysis of a number of pivotal legal cases and case studies of attempts to regulate activities on the Internet. But while sharing Godwin's enthusiastic support for free speech, I felt that greater weight might attach to the arguments of the Foundation with a more nuanced presentation of the real or perceived concerns that have prompted government and private attempts at restricting online activities.

Areas dealt with in some detail relate to online libel and pornography. The libel discussion raises the need for overall scrutiny of the principles of

libel law in the light of technological innovation. Questions such as, who is a publisher? And, who is a distributor? Interesting ideas are advanced as to the reasons why libel actions based on Internet publication are rare. One suggests that as the Internet allows almost anyone to become a public figure, and therefore bear the burden of proving malice in any libel action, few plaintiffs are likely to be able to pass this test. In addition, Godwin asserts that as the Internet provides potential plaintiffs with the immediate opportunity to correct the damage through posting an online correction, no further recourse should be necessary.

He goes so far as to assert that if the Internet becomes the primary mass media of the next century, libel laws might be rendered totally obsolete. All very well. But how do you ensure that those exposed to the libel are informed of the correction? What if the person being defamed doesn't have access to the Internet? And would such a characterisation of the Internet as a libel free zone not lead to even more unfounded rumours and gossip than appear already? I can think of a lot of reasons why libel law might need a good going over but I do not feel that Godwin's argument is the most convincing.

It is this over enthusiastic promotion of the Internet which becomes irksome after a while. Every issue Godwin discusses ultimately comes down to the same concept or "meme"; that the Internet gives real meaning to the rhetoric of free speech and democracy. Any curtailment of rights on the Internet or extension of existing laws of copyright, libel, or censorship to the Internet is presented as if it were a conspiracy to deny this democratic potential through restricting the free

exchange of ideas.

But the Internet as an unfettered form of democracy is a really exciting idea and one that I would have liked to see get a more comprehensive airing. Presumably this assumes that in future all citizens will have equitable access to this form of technology - in which case there may be a few more hurdles to get over before this ideal is realised.

Admittedly the political landscape of the U.S. leaves little room for subtle distinctions when the Christian right comes head-to-head with the pornography industry. It is this area that gets the greatest attention in the book and deservedly so as it makes for the most explosive debate and consequently encourages the most restrictive regulation. Godwin quite convincingly establishes that much of the debate is driven by unsupportable claims by the Christian right as well as, in his view, deliberately manufactured hysteria.

An enlightening description is provided of the way in which an undergraduate's largely unsupervised, unrefereed "research", in an area somewhat wide of his specialty, can be beaten up into a respectable academic work. The subject of this "research" being the prevalence of pornography on the Internet, it inevitably makes the cover story of Time, is quoted in Congressional Hearings and largely influences the passage of the Communications Decency Amendment to the *Telecommunications Reform Act*.

Another anecdote follows of our author's not inconsiderable contribution to the attack on this flawed piece of legislation, which purported to regulate pornography on the Internet, but seemed capable of applications well beyond the harm it claimed to address. Attention is

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