

The cybercrime prevention act law constitutional administrative essay

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Cyber Rights: Privacy and Freedom Around the Globe Justin Mausolf COSC
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Citizens of the United States are guaranteed right to privacy and freedom of expression through the Constitution, but not all enjoy the same liberties. Many countries do not have a founding document such as the U. S. Constitution. Corrupt governments and communism are very repressive and censor media in many countries including the Republic of China, Islamic Republic of Iran, and Cuba. Many countries around the world, including the U. S. are fighting to maintain or gain right to privacy and freedom of expression from various imposing legislations and leaderships. Legislation and constitutional language and enforcement are critical to preserving right to privacy and freedom of expression that is guaranteed to U. S. citizens by the Bill of Rights. The Constitution of the United States, specifically the Bill of Rights, contains the legal basis for guaranteeing citizen's right to privacy and freedom of expression. The Bill of Rights is a part of the Constitution created during the creation of the United States. A piece of its purpose is to protect citizen's right to privacy and freedom of expression. The biggest protector of privacy in the Bill of Rights is the Fourth Amendment, which protects individuals from unreasonable searches and seizures by the government. The First Amendment protects freedom of religion, speech, press, and assembly, also implicitly protects freedom of expression. These amendments were created in a time where a person's property was very important and the suggested rights were meant to protect a person's property. Definitions of property in the information age are becoming skewed in cyber space. It becomes increasingly more difficult to say exactly where citizens are

protected and what is searchable within the bounds of the constitution. The constitution's creators could not have foreseen the implications the rights were going to have on future situations. That is why they created a living document and left it open to interpretation by the future leaders and the Constitution's enforcers. The fact remains the document is the legal basis for guaranteeing the right to privacy and freedom of expression and without its enforcement, we would lose those rights as seen in countries around the world. The citizens of Iran face strong control over their communication and internet which is due to ambiguous language in the Iranian Constitution. The Iranian government controls access to the internet for its citizens. The government blocks the major social networking web sites such as Google and Facebook. When demonstrations are happening, the government stops the nation's text messaging service. Recently there has been an investigation over the death of Sattar Beheshti in the custody of FATA, an Iranian cyber police unit. Beheshti, a blogger, was arrested by FATA for so called actions against national security on social networking sites. While imprisoned the next day, Beheshti sent a letter to the head of the prison complaining, " I was arrested by FATA and beaten and tortured with multiple blows to my body." [1] He also wrote that if anything were to happen to him, the police would be responsible. A few days later he was reported dead and still today the family does not know the exact details surrounding the death. [2] Higher authorities have launched a probe into the death but the results will likely never clear up the details surrounding the incident, given Iran's track record with deaths occurring in custody. These actions show the seriousness that the Iran leadership takes in controlling what its citizens say

and do in regards to the leadership. The situation like Beheshti's is common in Iran. The recurring penalizing of press and individuals in Iran is due to indefinable constitutional law. Article 24, in the Iranian Constitution provides that "publications and the press have freedom of expression, except when detrimental to the fundamental principles of Islam or the rights of the public." [3] This law is indefinable because of ambiguous language. The statement refers to the fundamental principles of Islam, which are not defined in the Article. Another specific law in allowing authorities in Iran to censor is the Press Law of 1986. The law limits press to reporting only pursuant of one of five "legitimate objectives" including "to campaign against manifestations of imperialistic culture...and to propagate and promote genuine Islamic culture and sound ethical principles." [4] This law contains ambiguous language, leaving key terms undefined and open to manipulation rather than enforcement. Citizens in the People's Republic of China endure internet censorship through a wide variety of laws and regulations. When China bid for the Olympics in 2001, the Chinese government promised to improve its human rights record. [5] The Olympics have been over with for years and freedom of expression in China has not improved. Over sixty internet regulations have been implemented by the Chinese government, which has been implemented by provincial branches of state-owned ISPs, companies and organizations. [6] China's control over internet access is achieved from multiple angles. Policy governs access through licensing and registration requirements and requires content to be monitored from the content provider to the end user. [7] The legislation and regulations behind China's internet repression are considered more complex

than in any other country. The Chinese authorities block certain web site content and monitor individual's internet activities. ISPs are required to record important data including identification, content, and other characteristics of user'.^[8]China's methods of filtering are set up that when there traffic is blocked the user receives a network timeout or error page so it is to look as it is uncertain the cause of the inaccessibility. When certain key words are detected, further requests to the target site are blocked for a period of time ranging from five to thirty minutes.^[9]China's leadership has a number of ways to censor and restrict access for its citizens, all stemming from policy and legislation. While most cases of internet censorship are in the eastern hemisphere, Cuba, in the western hemisphere also extensively censors its media and is able to because of language in the Cuban Constitution. Cuba's censorship has earned sanctions from the European Union from 2003 to 2008.^[10]Cuba has ranked low on the Press Freedom Index released by Reporters without Borders every year since it has been established in 2002.^[11]In 2006, it was reported by the Inter American Press Association that repression of journalists, mistreatment of imprisoned journalists, and very strict government surveillance were limiting citizen's access to media and other information sources.^[12]Most media in Cuba, including books, newspapers, radio, and television, are censored. Any type of print, audio, or video containing anything interpreted by the government as embarrassing to them, can be discontinued, blocked or could possibly lead to judicial action. Special permits are needed in order to use the internet. Only select Cubans are permitted and most citizens have limited access. People were not allowed to use mobile phones until recently.^[13]The censorship in

Cuba is written into the Cuban Constitution. The Cuban Constitution guarantees freedom of speech and religion, but it can only be exercised in accordance with the socialist society. Cuba does have courts at various levels including a Supreme Court, but the judiciary is appointed by the National Assembly. There is no relief from the courts when Cuban citizens are tried in violation of laws regarding expression and privacy since the judiciary is politically appointed. Provided that the socialist government has so much control over the country, there is not much reason to believe Cuban citizens will escape the repression of privacy and freedom of expression any time soon because the Cuban Constitution's provisions allow it only selectively. The United States struggles to find a balance for privacy and freedom for its own citizens, as well as recognizing that need for other countries and addressing it through legislation. In 2011, a bill was proposed to help punish those governments abroad restricting the internet freedoms and censorship of its citizens. On December 8, 2011 the subcommittees on Africa, Global Health, and Human Rights gathered for a hearing on Promoting Global Internet Freedom and to introduce the Global Online Freedom Act (GOFA) of 2011.[14]The legislation calls for the State Department to beef up its reporting on Internet Freedom in annual country reports. It would be in the form of a list which would be useful in diplomatic measures and to shame countries making the list. A second provision would force internet companies on the U. S. stock exchange to disclose to the Securities and exchange Commission how they implement human rights related activities, including how they handle the collection and sharing of personally identifiable information with repressive countries. Lastly, the bill would prohibit the

export of hardware and software, which could be used in surveillance, tracking, and blocking of content, to the governments of internet-censoring countries. At the hearing some of the instances of internet censorship occurring around the world were also discussed. At the time, it was noted that an estimated 70 Chinese civilians were in prison for political statements they wrote online. In Zimbabwe, forty-six people were imprisoned under a charge of treason for watching a video of Egypt and Tunisia's protests. These cases were just some of the reasons for wanting to implement the GOFA. The law was not enacted but surely it will not be the last time legislation will be proposed to try to help fight repression of foreign citizens. It is just another example of how legislation can impact right to privacy and freedom of expression. While the GOFA was an attempt to help citizens of foreign countries, there are recent cases of legislation that present the potential to curtail right to privacy. The Cyber Intelligence Sharing and Protection Act (CISPA) is a proposed law in the U. S. that could potentially repress U. S. citizen's internet freedom. It has that potential by allowing the U. S. government and manufacturing companies to share internet traffic information, things that some say should be private. CISPA has been criticized by Internet privacy groups and civil liberties advocates. One argument against CISPA is that it does not contain enough limits on monitoring individuals' private information. Additionally, critics fear that such new controls might be used on the public, invading citizen's privacy, rather than perusing malicious users. Large corporations including Microsoft and Facebook support CISPA, which look on it as an efficient way of sharing important cyber threats with government agencies. I don't think anyone

would argue that useful information could be shared, but when new powers are attained there is always a chance for abuse. It would not be a stretch to think that authorities would use these powers on a person of interest in the name of national security. Without proper limits, the implementation of this law could easily cross the line of curtailing right to privacy for citizens of the U. S. The Stop Online Piracy Act (SOPA) and Protect IP Act (PIPA) are two more pieces of proposed legislation that contain provisions that could potentially curtail freedom of expression for citizens of the United States. SOPA is a bill that would give U. S. authorities more power to combat online copyright infringement and online trafficking of counterfeit goods. [15]The Protect IP Act is similar to SOPA and frequently mentioned with SOPA. Similarly, its purpose is to give the U. S. government and copyright holders additional means to block access to web sites that sell counterfeit goods.[16]SOPA's Provisions would not allow companies to do business with web sites that infringe on copy rights. Additionally, it would also prevent search engines from providing links to those sights and mandate Internet Service Providers to block access to web sites that infringe on copy rights. Supporters of the law say that it will protect the intellectual property market industries, as well as the jobs surrounding it. Supporters also claim that current legislation does not cover foreign-owned web sites. Critics say that the proposed legislation threatens innovation and free speech. Critics also point out that it allows entire domains to be blocked due to a single infringing page, which could block access to pages with legitimate information. There are also concerns that SOPA could bypass safe harbor protections given to web sites by the Digital Millennium Copyright Act, which

currently allows web sites to operate without having the liability of monitoring what their site is being used for.[17] Other opponents say that mandating search engines to erase domain names violates free speech of the First Amendment. At the current time the two pieces of legislation have been put on hold until some of the provisions can be agreed upon by both sides. The domain name portion of the law has been removed from the bill but it shows if the language of SOPA and PIPA is not made specific enough the ramifications could be huge. It could prevent ordinary users from accessing many sites they have been accessing on a regular basis including non-infringing pages, which is curtailing of freedom of expression. The Cybercrime Prevention Act of 2012 in the Philippines has provisions that may potentially affect freedom of expression and freedom of speech in the Philippines. The act addresses legal issues in the Philippines that were not covered by the old laws. Some of the cybercrime offenses included in the bill are child pornography, identity theft and libel. It is welcomed for provisions penalizing illegal acts but the act is disliked for the provision on libel, which some perceive to restrict freedom of expression. The act includes a takedown clause which allows law enforcement to demand removal of content that is contrary to the provisions without a court order. If a court order is not needed for law enforcement to take down a web site, it allows room for abuse. Without a third party to act without bias and grant a court order, there is no one to limit the potential for abuse. Law enforcement is made up of humans and humans are subject to mistakes and greed. What is in place to stop the potential abuse of power here? There must be some form of balance here for this to work or it will end up causing unintended harm.

The takedown provision has serious potential of curtail right to privacy and freedom of expression in the Philippines. The Cybercrime Prevention Act of 2012 should be modified to remove provisions that may potentially affect freedom of expression and freedom of speech for citizens in the Philippines. Legislation and constitutional enforcement are critical to preserving right to privacy and freedom of expression. Citizens of the United States are guaranteed right to privacy and freedom of expression through the Constitution because the Supreme Court and Department of Justice enforce it. Many countries do not have the protection of a constitution or do not see it enforced as citizens of the U. S. do. Many countries including the U. S. have a war against imposing cyber legislation. Iran, China, and Cuba are countries that do not have open and free internet access allowing free expression. Citizens around the world are invaded by their own governments using new technology. Iran severely punishes its citizens for speaking negatively against the leadership and continues to do so because of ambiguous language in the Iranian Constitution. China restricts access to its citizens using a very complex and layered system of technology and policy. Similarly, socialist Cuba restricts expression in media and punishes those that may cause embarrassment to the National Assembly. The Global Online Freedom Act was attempting to help citizens of foreign repressive governments through U. S. legislation. More recently, legislation has been proposed that could potentially curtail freedom and privacy of U. S. citizens such as CISPA, SOPA, & PIPA. In the Philippines the Cybercrime Prevention Act of 2012 threatens freedom of expression. All these are examples of how legislation

and enforcement of constitutions, or similar documents are critical to ensuring right to privacy and freedom of expression.