

Legal Regulation & Education: Doing the Right Thing?

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Surfing in the Darkness: A Legal Conceptualization of The Onion Router

Recent revelations of widespread surveillance by the NSA and GCHQ have brought to light the use and abuse of private information on the Internet, and have led to diminished trust in the security and privacy of personal data on the Internet. This in turn has led many users to search for alternative systems.

One such tool is TOR, or “The Onion Router”, which allows Internet users to remain anonymous while surfing the web. This technology, used by 3 to 4 million people at any given time, prevents tracking and surveillance through the use of a volunteer network of five thousand relays.

It is used by citizens, activists, the police, military and journalists, as well as those who are attempting to elude detection for more lascivious purposes. As such, detractors have styled it the “dark corner of the web” and it has, on several occasions, been the subject of governmental attempts to unlock its anonymous nature.

This paper will seek to clarify, for the legal audience, how TOR works. It will examine its benefits and drawbacks, its strengths and weaknesses. It will scrutinize some of the more controversial aspects of the Internet that have been associated with TOR, namely, the recent Silk Road prosecution, the use of Bitcoins, and the availability of illegal content through TOR. The paper will investigate governments’ responses to TOR and determine whether or not the phenomenon promotes free expression in a democratic society or rather promotes hazardous activities which outweigh any benefit it may provide.