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1

Introduction



Background to the Handbook

This Handbook, and the associated research reports and toolkits, have been developed through a collaborative project of five research teams around the world, working with a CRIS coordinating group. The project acronym, CRAFT, stands for Communication Rights Assessment Framework and Toolkit, and was funded through a grant from the Ford Foundation.

The idea grew from a feeling among Communication Rights in the Information Society (CRIS) campaign activists in different countries and regions that we could fruitfully compare, if only loosely, diverse experiences and meanings of “communication rights”. Over several years working together, we had come to use the term casually, we believed, in a more or less commonly understood manner. Yet we sometimes encountered unexpected and diverse nuances –often more than nuances– suggesting that in reality we used it differently when applied to different contexts. Our use of “communication rights” at the global level too, in the context of the *World Summit on the Information Society* and at civil society events like the *World Social Forum* and national counterparts, was something less than uniform.

Our experience led us to the conclusion that if we, as civil society activists, are to engage successfully with global and regional governance structures, we must be very clear about what we mean by communication rights, from local to global levels. This is essential to communicating our ideas to others.

A “Framing Communication Rights” Workshop was held in Geneva¹ in December 2003, alongside the WSIS, and this certainly helped to focus the work of this Project. It was clear that the question was not simply one of enabling international comparison, or adopting common terms, but one of formulating –indeed inventing and reinventing– the concept of “communica-

tion rights” within different national and regional contexts. We could not begin from an assumption of a common conceptual core, but would rather have to open up a gamut of possibilities to be explored and tested against the reality of different circumstances. It was the local, national and regional circumstances that must drive the process and demarcate the concepts, just as it is these levels –rather than the global *per se*– that must drive forward the cause of communication rights.

Thus, this project, called *Global Governance and Communication Rights*, was launched by the CRIS Campaign in February 2004.

Teams were selected through an open process to work in Brazil, Colombia, Kenya, and the Philippines, and at the level of the European Union. Each team combined advocacy and research expertise, and all had been involved in some way with CRIS campaign members. Over the fifteen months to March 2004, they undertook research in their territory, organised verification workshops, and wrote reports, all the while collaborating through e-mail and a face-to-face Workshop, held in Marrakech in November 2004. The project coordinator and central CRIS coordinating group provided conceptual support, drafting the Framework on Communication Rights, indicating resources, commenting on outputs, organising a website, and so forth.

This Handbook is based directly on the experience of the research teams, and drawn up with their collaboration.

The final component of the work was the joint production of a *Communication Rights Advocacy Toolkit* [<http://www.crisinfo.org/craft/>], a complementary package of practical tools and materials, designed to assist activists, advocates and others directly involved in communication rights issues in their own areas. The CRAFT toolkit is comprised of two elements –a Handbook and an Advocacy Toolkit– which can be used independently or, as they were developed in our CRIS project, in succession.

¹ The report of the meeting can be seen at: <http://www.ourmediainet.org/documents/Framing%20Communication%20Rights.pdf>

Why Assess Communication Rights?

This Handbook is a tool to assist an assessment of the current state and ongoing dynamics of communication rights in a given territory. It offers guidance, based on our experience, on how a *Communication Rights Assessment Framework* (Annex 1) can be deployed most effectively and to address different goals.

It is designed for use primarily by civil society organisations and institutions, such as NGOs, research centres and academic institutions, with an interest in assessing their environment in terms of communication rights, or with a view to advocacy or pedagogic work in the area.

The following chapter offers an introduction to communication rights from a number of different perspectives. It argues that the concept of communication rights can draw together under a single conceptual umbrella what might appear to be, at first sight, a diverse set of issues and dynamics. The idea of communication rights links them all to a process of societal communication that is central to political, cultural and economic life, and to individual and collective identities.

We asked the implementing teams to document the benefits and difficulties of the research process and the Communication Rights Framework, and their full reports are available from our website (<http://www.crisinfo.org/craft/>). They offer a few useful insights into the benefits as they saw them:

- Building bridges between groups in communication and media.
- Instigating debate on communication, using the language of human rights and highlighting neglected areas.
- As a tool for advocacy in communication.
- Enabling the identification of key common areas for action, and development of strategies for action.
- As a contribution to international dialogue on communication rights.

Building bridges between groups
in communication and media

The process of implementing the Framework helped to build bridges between different advocacy groups, researchers and CBOs working on different aspects of communication rights, through enabling them to link their issues to those of others, and to recognise the commonality of struggle in the communications arena.

Through this rich interaction between organizations and specialists, the team believes that the concept of communication rights, broad as it is, greatly assists the development of actions among them, allowing them to realize that all are participating in the same struggle. For example, small villages in Amazonia, with a notion of CRIS-related concepts, helped to build a network of community radios and to preserve their cultural identity and traditional knowledge. Communication rights relate to many different aspects, but they must always be observed as a whole. (Brazil)

In the Philippines, a similar process was noted:

We feel that the Research project had a positive impact in integrating various threads of advocacies under the Communication Rights umbrella. This was positively seen by the fact that different constituencies — media rights advocates, ICT for Development practitioners, telco regulators, NGOs using online tools— were brought together in the validation workshop and began to see the thread of their issues as being interrelated, at least on the conceptual level. (The Philippines)

The process of implementing the Framework and the Report itself can point, in a very concrete manner, to linkages between different communication rights components that are often disconnected in the context of a shared larger picture:

Each group deals with a distinct combination of communication rights. ... It is possible to look specifically at cultural diver-



sity and media ownership; intellectual property and cultural diversity; social appropriation of ICTs and freedom of expression. The way each organization approaches communication rights is different. But they have in common, on the one hand, an overall picture that is central to an understanding of communication rights, and on the other, the possibility of using each of the indicators separately or in various combinations. (Brazil)

Instigating debate on communication, using the language of human rights and highlighting neglected areas

Communication issues are seldom discussed in the context of human rights, a context that can bring a specific meaning to, and impact on, the political process. This has particular resonance in Colombia where, through a process of interaction between academic research and grass-roots organisations, the team attributed significant value to the process of:

... opening a space for communication as a right, institutionally and within the framework of the demands of diverse grass-roots sectors. (Colombia)

The Brazil team also concluded:

In the long term, however, it could be interesting to use this generic framework as a tool for political intervention in the communication rights status quo. (Brazil)

Implementing all components of the framework also opened areas that were previously ignored or obscured from public view.

The research itself has also been an opportunity to interrogate and highlight often marginalized yet significant issues in mass media such as access to information; decriminalization of libel; and foreign ownership in media; as well as link up the issue of IPR as a communication rights issue for all. (The Philippines)

As a tool for advocacy in communication

The above suggest that the Framework can be used as a tool to assist in developing a campaign around communication rights. This was explicitly the case where the team involved was already participating in the CRIS Campaign:²

The research process and generic framework were extremely useful for establishing CRIS Brazil. This approach had the advantage of bringing concrete issues into the debate, which allowed dialogue over a common basis, but without obliging any actor to follow any previous political orientation. The research report was political enough to unify those interested in communication rights and wide enough to reunite actors of several different areas. (Brazil)

The Kenyan team suggested that regularly updating the work would enhance its advocacy impact:

Generally the team believes that the framework will eventually add impetus to advocacy efforts in communications rights. We anticipate that the status review, if updated, will play a significant role in creating a linkage between hitherto disparate sectors: information and telecommunications, broadcasting regulation and communication rights in general. (Kenya)

“Localisation”, enhancing its focus and relevance to local issues, was also an issue:

Stakeholders in Kenya positively welcomed the Communication Rights framework and affirmed the findings of the Research Team. They acknowledged that the concept of Communication Rights was a legitimate and important one, and was a positive contribution—however some participants wanted to engage the concept further to localise/indigenise it. (Kenya)

² There was no obligation on teams that their work in the project should contribute to the CRIS campaign, only to the communication rights context in general.





As a means to identify key common areas for action, and develop strategies for action

Based on the research results, all four national studies identified areas of key concern, a process that began with the Verification Workshops and was completed by the teams themselves in collaboration with local interests. The rationale for the selection varied, but in all cases it included a perception of both the gravity of the issue for people's communication rights and the potential for practical advocacy action through a broad collaborative effort.

All teams have also gone on to develop tools for advocacy. These have a common component focusing on communication rights in general (of which this Handbook comprises a part), but also a component tailored to their specific needs and circumstances. These can contribute to consolidating bridges between actors, and to building a more secure base for a campaign in the future.

However, future teams taking up the Framework in their own contexts may decide to build on the outcomes in different ways, i.e. the development of advocacy materials may not always be the chosen way to take the work forward. Perhaps the focus will be on an authoritative publication; on designing a common strategy; on organising an ongoing forum for interaction; on direct lobbying of political powers; or any number of ways that committed people go about addressing critical social concerns.

This Handbook is intended to leave it open to local groups to select any and/or all such ways of moving forward.

As a contribution to international dialogue on communication rights

Behind the idea of the project, and of the toolkit, was the need to develop a common understanding of communication rights, which was nuanced enough to sustain meaningful interaction and comparison between different circumstances globally.

The teams came together towards the end of the work to discuss the process and results, to identify areas of key concern, including of common concern, and to design the conceptual basis for the advocacy toolkits to be developed from the research. The encounter, and the level of interaction, agreement and subsequent work together, has underlined the extent to which the teams had developed a common, but variegated, understanding of communication rights throughout.

The deployment of the advocacy tools developed under a common conceptual scheme will continue into the future, and hopefully lead to further interaction as well as additional use by many groups and organisations outside of this project.

All but one of the teams (along with groups involved with the research) are already actively engaged together, and with others, in two international fora on communication issues –the World Summit on the Information Society and UNESCO's Convention for the Protection and Promotion of the Diversity of Cultural Expressions– both of which cover issues that emerged strongly from the research. We believe that the extent and quality of international collaboration will continue to grow as an additional outcome of this work.

* * *

This Handbook is, in the end, directed at any and/or all groups who are concerned about communication rights issues in their areas. Along with the associated materials, it forms just part of a larger set of resources available from the CRIS Campaign, working in collaboration with numerous other groups worldwide. It is hoped that they may encourage and facilitate many more to take up the challenge of communication rights. ■



2

Introducing Communication Rights



THIS SECTION OFFERS A PRIMER ON THE CONCEPT OF COMMUNICATION RIGHTS.

IT ASPIRES TO BE NEITHER COMPREHENSIVE NOR DEFINITIVE. NOR DOES IT CLAIM TO REPRESENT A CONSENSUS AMONG THOSE ADVOCATING COMMUNICATION RIGHTS WITHIN OR OUTSIDE THE CRIS CAMPAIGN. BUT IT DOES EXPLORE ISSUES FROM A NUMBER OF PERSPECTIVES, AND IS HOPEFULLY AS GOOD A STARTING POINT AS ANY.

EACH SECTION, WITH THE EXCEPTION OF THE FIRST AND LAST, ARE PREFACED WITH A SHORT SUMMARY.



Introduction

Consider the following:

- In 2004, Thai media activist Supinya Klangnarong was brought before the courts for alleged defamation of the Shin Corporation, the communications conglomerate of Prime Minister Thaksin Shinawatra. Her crime? She wrote in the *Thai Post* what many already believed –that the US\$980 million growth in Shin Corporation profits since the Prime Minister's party gained power might be a direct result of the administration's policies.
- The Amazigh (or Berber) languages of North Africa are not recognised in the constitutions of Morocco or Algeria, where French is the official language of society and education. Neglect and suppression of this mother tongue (Berber speakers represent 60% of the population in Morocco and 30% in Algeria) is a violation of linguistic human rights.
- In late 2004, the play *Behzti* (Dishonour) was cancelled by Birmingham Repertory Theatre after a weekend of violent protests by the Sikh community in this UK city. The play's female Sikh author, Gurpreet Kaur Bhatti, went into hiding following threats of abduction and murder. Protesters claimed that the play, which dealt with human fallibility and hypocrisy, demeaned Sikhism by depicting rape and murder within a temple.
- Although the precise number is not known, there may be as many Sign languages as there are spoken languages, i.e. some 7,000. Sign languages are fully-fledged, multi-purpose, complex languages –the mother tongue of the deaf. Yet many countries do not officially recognise them or allocate adequate resources, especially in the early development of children and for vital services.
- In Korea, the government is under enormous pressure to drop a policy of requiring that a minimum percentage of Korean-made films be shown, a policy that has led to a thriving

and sophisticated film industry. This is part of US efforts to force everywhere the elimination of barriers to its media exports –a policy vigorously pursued in all their bilateral and multilateral negotiations.

- The USA Patriot Act of 2001 allows government to investigate citizens and non-citizens, to engage in surveillance, and to threaten civil rights and liberties guaranteed under the United States Constitution and Bill of Rights. The Act was challenged by the American Library Association, which opposed any use of governmental power to suppress the free exchange of knowledge or to intimidate individuals exercising free inquiry.
- The head librarian of a university in Cork, Ireland, has far more information at his disposal that he did ten years ago –but can make freely available only a fraction of what he could then. Meanwhile, African universities are finding it harder and harder to pay for escalating academic journal prices. The reason? Concentration of ownership of journals globally, ever tighter copyright, and digital rights management.

What do these examples have in common? They all weaken the capacity of people and communities to use communication and media to pursue their goals in the economic, political, social and cultural spheres. They –and countless other obstructions and infringements– undermine key human rights that collectively support people's capacity to communicate in their general interest and for the common good.

Such rights have come to be known as “communication rights”. They go beyond mere freedom of opinion and expression, to include areas such as democratic media governance, participation in one's own culture, linguistic rights, rights to enjoy the fruits of human creativity, to education, privacy, peaceful assembly, and self-determination. These are questions of inclusion and exclusion, of quality and accessibility. In short, they are questions of human dignity.



Encouraging examples can also be pointed to: People successfully demanding the right to create their own media, especially radio; mobilising against new legislation in many countries that restrict communication in the name of fighting “terrorism”; a campaign successfully halting the concentration of media in the USA; the World Intellectual Property Organization (WIPO) being called to account on its development commitment; communities building and cooperatively owning their own telecommunication networks.

But the balance in communication rights in recent years has been moving against the people and against democratisation in many dimensions. Many oppressive governments still maintain a grip on the means of communication by traditional methods, but new ways to control communication, driven by a global thirst for profit and geopolitical dominance, are coming to the fore.

Yet democratic, participative and informed communication, individually and collectively, is more important now than ever as we face unprecedented threats to global sustainability, to human welfare and wellbeing, and to cultural diversity.

Our introduction to communication rights begins in Section 2, below, with an account of the ori-

gins and evolution of debates on the concept, with a focus initially on the intergovernmental level, then moving to civil society.

Section 3 reviews the closely related concepts of a “right to communicate” and “communication rights”, to dispel confusion that sometimes arises.

Communication rights are contrasted with freedom of expression in Section 4, to illustrate the breadth of the concept, followed in Section 5 by consideration of the specific “value-added” of communication rights.

Section 6 asks whether it is enough for the various components of communication rights to simply exist in law, internationally or nationally, and surmises that it clearly is not, if they are unenforceable. The subsequent Section argues that communication rights are especially relevant today, to help make sense of a diverse set of global dynamics that threaten to undermine the social communication process; and Section 8 considers a “worst-case” scenario.

The final section makes the case for a united front as one likely to be the most effective in advocating and acting for change. ■



An Early Debate on Communication Rights

The first broad-based debate on media and communication globally, limited mainly to governments, ran for a decade from the mid-1970s. Governments of the South, now a majority in the UN, began voicing demands in UNESCO concerning media concentration, the flow of news, and “cultural imperialism”. The MacBride Report in 1981 articulated most comprehensively a right to communicate. The debate was compromised, however, by the Cold War, and fell apart after the US and the UK pulled out of UNESCO, clouding discussion in UN bodies ever since.

At the same time, NGOs and activists from the 1980s onwards became increasingly active in a variety of communication issues, from community media, to language rights, to copyright, to Internet provision and free and open source software. In the 1990s, these began to coalesce into umbrella groups tackling several issues. The idea of communication rights began to take shape, this time from the ground up.

Rights relating to communication have been central to the concept of universal human rights emerging in the middle of the 20th century, consolidated in the United Nations Charter and the Universal Declaration of Human Rights. Key Articles define basic preconditions and components of a right to communicate, though no direct reference is made to the concept.³

Jean d'Arcy is generally credited with being the first to explicitly make the case for a right to communicate. In 1969, then Director of Radio and Visual Services in the United Nations Office of Public Information, he wrote:

The time will come when the Universal Declaration of Human Rights will have to encompass a more extensive right than man's [sic] right to information, first laid down 21 years ago in Article 19. This is the right of man to communicate. It is the angle from which the future development of communications will have to be considered if it is to be fully understood. (d'Arcy 1969)

There the issue might have rested –an interesting observation to be tested by historians of the fu-

ture– were it not catapulted to the forefront of geopolitics much sooner than he expected. Within a decade, the idea of a right to communicate was at the centre of an international diplomatic row that lasted several years and still reverberates today– the only time a broad range of communication issues was debated on the international stage. The debate focused on what became known as a *New World Information and Communication Order* (NWICO).

The New World Information and Communication Order (NWICO)

The NWICO debate must be seen in its broader geopolitical context. The growing number and power of poorer sovereign states following decolonisation, and the ensuing rebalance of power in the UN, provide the political platform. By 1974, these countries had succeeded in formulating and asserting an economic philosophy in the United Nations, against the resistance of the more powerful nations: the *New International Economic Order* (NIEO) was born. Many concerns that gave rise to the NIEO had their counterparts in the information and communications sectors. The NWICO focused on the following:

³ See Annex 2.



- The “free flow” doctrine of information flow, in place since the 1940s, was reinforcing the dominance of western media and news content;
- The growing concentration of media and communication industries was translating into greater foreign ownership of media in smaller and poorer countries;
- The rising importance of western-controlled technologies in media production and dissemination was making it difficult for others to keep up.

Against a backdrop of the crucial role of media and communication in the context of “nation building” and decolonisation, many countries became seriously concerned at the impact on national identity, cultural integrity, and political and economic sovereignty. Doubts about trends in cultural and media “imperialism”, and its long-term implications, were voiced not only by less developed countries but in many others, including France, Canada and Finland.

The NWICO was spearheaded by the Non-Aligned Movement (NAM) of UN countries. As the only UN body equipped to debate the range of issues raised regarding media, communication, culture, news distribution and so forth, it was inevitable that the action would be staged primarily at UNESCO. At a series of meetings between 1973 and 1976, the NAM moved from a simple critique of transnational media corporations and powerful governments to a much more sophisticated plan for a *New World Information Order* (as it was known then). At the same time, responding to movements within the UN as a whole, UNESCO was convening a number of expert groups and commissioning background papers on issues such as Direct Broadcast Satellites, which many countries feared would beam unwanted messages with impunity; and on the development of national communication policies.

Both strands met at the 1976 UNESCO General Assembly, under Director General M’Bow, and a

wide gulf became apparent between the views of the NAM and western countries, including the USA, the UK and several others. A showdown was avoided only by the creation of an *International Commission for the Study of Communication Problems*, generally called the *MacBride Commission* after the Chair, Seán MacBride. But the NWICO was now firmly on the UNESCO agenda, explicitly linked by M’Bow to the NIEO, and would stay there for a decade.

The 1978 UNESCO General Assembly saw further acrimonious debate and furious diplomatic battles. Nevertheless, there was a significant outcome, at least on paper, in that agreement was reached on a *Declaration on Mass Media* (UNESCO 1978). This contained a diluted version of the original, much broader, proposal, and the “free-flow” doctrine supported by the USA, the UK and others was amended to one of a “free-flow and wider and better balanced dissemination of information”.

The MacBride Commission undertook a huge programme of consultation and research, and received numerous submissions including a number on the right to communicate, and one from d’Arcy, where he noted: “From the very first, this fundamental right was implicit in, and underlay, all the freedoms that have successively been won: Freedom of opinion, freedom of expression, freedom of the press, freedom of information” (d’Arcy, 1978). The Commission reported to the 1980 UNESCO General Assembly.

The *Many Voices One World* report, which was presented to the 1980 General Assembly, bore the hallmarks of a fractious political process, fudging many issues and with numerous caveats entered by some Commission members from the US and elsewhere. But it was comprehensive (with a notable weakness in relation to gender), wide-ranging, and came with a long list of recommendations, among them the following:

Communication needs in a democratic society should be met by the extension of specific rights such as the right to be informed, the right to in-





form, the right to privacy, the right to participate in public communication –all elements of a new concept, the right to communicate. In developing what might be called a new era of social rights, we suggest all the implications of the right to communicate be further explored. (UNESCO 1980 Recommendation 54, p. 265)

For the first time, the NWICO had a general framework, a detailed justification, a set of proposals, and a unifying concept –the right to communicate. After teetering on the brink of collapse, the Commission's findings were endorsed.⁴ This was the defining moment for NWICO, one whose genesis exclusively in the intergovernmental context was soon to bear the compromising and destructive imprint of the Cold War.

For the veneer of agreement was thin. Instead of bringing the sides together, the process had exposed the gulf between them, and entrenched the positions, especially of the West. A counteroffensive was not long in coming.

The USA led the attack on UNESCO, supported strongly by the private media industry and lobbies such as the World Press Freedom Committee. The central allegation was that less developed countries were attempting to impose government control of the media and to suppress freedom of the press –despite the fact that freedom of the press was strongly endorsed at every turn by NWICO.

At the end of 1983, however, the USA notified UNESCO of its intention to withdraw from UNESCO, carrying out the threat a year later. Its

strongest ally, the UK, left the following year. The decisions were taken partly because of NWICO, but probably represented also the USA and UK's broader rejection of multilateralism, of which UNESCO was a key component. NWICO managed to stay on the UNESCO agenda, though with little action, until 1987. The replacement of M'Bow in that year by Federico Mayor, and the changed overall mood, led to its final disappearance. UNESCO's medium-term plan for 1990 to 1995 made only cursory mention of NWICO, and reinstated the “free-flow” doctrine at the centre.

Yet the disparities animating the NWICO movement were not so easily disposed of, and in some respects continued to deepen. Concern over these was not going to disappear, and the concept of a right to communicate helped carry them forward.

From Intergovernmental to Multi-Stakeholder

For many involved, the main lesson of NWICO was that the way forward must be through the democratisation of media and communication, rather than through state- or industry-driven efforts to create new global orders. A major shift was needed towards civil society, which had largely been excluded from discussions. Those civil society actors that had been involved, mainly journalists' organisations and some academics, continued debating in the form of the *MacBride Round Table*. It met annually from 1989 to 1999, reaching out to other civil society actors, acting as a bridge also between them and sympathetic academics and governments.

Concurrently, other elements of civil society had long been active on the ground in media and communication issues, even if not under the banner of communication rights.

During the 1980s and into the 1990s, numerous non-governmental organisations, most acting independently of the NWICO debate and largely unaware of it and often of each other, actively promoted communication issues in theory and in practice. Community radio, video and other

⁴ One outcome was agreement to set up an *International Programme for the Development of Communication* (IPDC), seen by some as an instrument to coordinate a huge range of resources into realising NWICO aims. It still exists today, but although it does useful work, its budget has been small in relation to the size of the problem, and indeed in relation to the hopes of many in less developed countries. Between 1980 and 2000, IPDC spent some US\$85 million on more than 900 projects, with funds donated from many countries. Its aims are to strengthen mass communication in developing countries, to develop technical and human resources, to promote the transfer of technology, and to foster pluralism and independence of the media, democracy and human rights.



alternative media became bastions of a more democratic and participatory way of communicating, going beyond traditional (though vital) demands for free speech to challenge the dominance of the mass media and the hegemony of corporate interests. Social protest movements in Latin America especially, but also in the USA and the Philippines for example, were pioneers in exercising communication rights. Free and open source software emerged as alternatives to expensive and tightly controlled Microsoft and other software giants; women's groups questioned the gender bias in communication technologies and in media generally; non-profit Internet pioneers opened up cyberspace to NGOs and civil society long before it became the norm even in industry; and truly independent media began to flourish.

A diverse set of actors thus began or continued to question trends in media, knowledge and communication, including associations of community media, faith-based organisations active in communication, international trade unions, emerging Internet NGOs, advocacy and activist groups springing up to address issues as diverse as Internet surveillance, concentration of media ownership, commercial censorship, and copyright excesses. These were now set alongside more traditional concerns of government censorship and controls.

Moving on

Through the 1990s, groups began to coalesce, and moves were made to address the larger dynamic underlying many of these concerns, among them the *People's Communication Charter* and the *Platform for Democratisation of Communication*. In addition to MacBride Round Tables, numerous broad-based conferences and meetings were held by individual organisations to pull the threads together and exchange understanding internationally. Gradually, a new civil society-based constituency was emerging to take up the same issues that had been raised at the NWICO, but now from a very different perspective and with the benefit of strategic hindsight.

Many of these came together, in October 2001, in the CRIS campaign. The CRIS Campaign had decided to focus on the upcoming *World Summit on the Information Society* in 2003, as a key global networking opportunity for civil society around media and communication issues. Despite the limitations of the event itself, focused narrowly on the neo-liberal agenda in telecommunication and ICTs, it represented a significant opportunity for civil society to mobilise on communication issues at local, national and global levels. Many others had made the same decision, and indeed the WSIS introduced a new dynamic into the discussion and action on communication rights in civil society (Ó Siochrú 2004). ■



A “Right to Communicate” and “Communication Rights”

A “right to communicate” and “communication rights” are closely related, but not identical, in their history and usage. The former is more associated with the NWICO debate, and points to the need for a formal legal acknowledgment of such a right, as an overall framework for more effective implementation. It also makes intuitive sense as a basic human right. The latter emphasises more the fact that an array of international rights to underpin communication already exist, but many are too often ignored and require active mobilisation and assertion. The two are not in conflict, and are used by the CRIS campaign in nuanced and complementary ways.

The terms “right to communicate” and “communication rights”, though closely related, are not synonymous. Distinct histories and tactics are bound up in their use by different groups.

As we have seen, the term “right to communicate” became associated with a (mis)reading of the NWICO promoted by its opponents, including US and UK governments and certain NGOs and industry-led associations. Continuing today in the context of the WSIS, some claim that attempts to promote a right to communicate are merely veiled efforts to revive the NWICO.⁵ In one respect this is true –many of the issues involved in the NWICO debate have never been resolved. But the accusation is based on a characterisation of NWICO as an effort to curtail freedom of speech and enhance government control. Such groups find the idea of “communication rights”, as distinct from a right to communicate, more difficult to criticise since it avoids direct connotations of NWICO.

At the political level, there have been calls over the years, beginning with NWICO, for the creation of a new right under international law, a right to communicate. This would build on, and add to, the existing international legal framework without weakening it, establishing a right to communicate as a clear and unambiguous right of all people. This position recognises that many components of a right

to communicate already exist, in the form of existing human rights. But the explicit declaration of a right to communicate would both bolster such existing rights and provide a better framework for ensuring that communication as a right is achieved on the ground. However, the specifics of this new right, whether it would be an individual and/or a collective right, its relationship to existing rights, the precise wording, and the legal form in which it would be incorporated, have not yet been teased out.

On the other hand, the use of the term “communication rights”, since it is in the plural form, implicitly points towards existing human rights that relate to communication, and away from promoting a new formal right to communicate, in the singular, in international law. The emphasis shifts subtly to realising the existing communication rights on the ground, not on establishing a new right under international law.

Within the CRIS campaign and those associated with it, there is agreement on all sides that the strategic requirement is to focus on the substantive issues around communication rights, and the fact that existing legal rights are ignored, or selectively and partially implemented to suit the powerful. This involves, for instance,

- promoting and disseminating the concept,
- undertaking advocacy,
- highlighting the abuse of these rights, and
- evaluating the adequacy of national law and enforcement.

⁵ The World Press Freedom Committee explicitly declares this to be the case. See <http://www.wpfc.org/site/docs/pdf/Publications/Working%20Papers-Conf%20Booklet.pdf>



The toolkit resources are being designed to support or respond to these needs, initially at a general level, but with a longer-term aim of contextualising materials in local contexts and languages.

Continuing exploration and specification of what is a formal right to communicate is part of this, but the creation of an international legal instrument is not among strategic demands for the immediate future. For many, if not most, the legal recognition of a right to communicate remains an ultimate and necessary goal, but the CRIS campaign in practice offers a space for collaboration for those who remain agnostic on this demand.

The idea that everyone has a right to communicate is a powerful one, irrespective of whether it is explicitly embodied in international law. Attempts by opponents to distort its history should not discourage its use –quite the opposite, a tactical case can be made to expose such use and the underlying agenda.

That calling for a right to communicate need not imply an immediate demand for an international legal instrument is demonstrated by recent uses of the term. A “right to communicate” was strongly endorsed at several points by influential actors during the WSIS process. The issue gained some prominence, although efforts to discredit it and a fear of controversy were probably responsible for its exclusion from the final text.⁶ The Secretary General of the UN, Kofi Annan, stated that: “millions of people in the poorest countries are still excluded from the “right to communicate”, increasingly seen as a fundamental human right.” (UN 2003). And the European Commission noted: “The Summit should reinforce the right to communicate and to access information and knowledge” (European Commission, 2002).

⁶ After considerable discussion, the Final WSIS Declaration included the words: “Communication is a fundamental social process, a basic human need and the foundation of all social organisation” Paragraph 4, Geneva 2004.

Other key NGOs, not members of the CRIS campaign, have also endorsed it. Article IX, in its overview of the right to communicate, describes it as:

... an umbrella term, encompassing within it a group of related, existing rights. This means that any elaboration of the right to communicate must take place within the framework of existing rights. (Article 19, 2003)

It concludes:

A Declaration on the Right to Communicate along these lines will contribute to the ongoing process of implementation of the International Bill of Rights.

Its Law Programme Director notes why it is important to retain the right to communicate as a distinct concept. First, the rights it brings together “cumulatively, are more than the sum of their parts”. And second, it is a “powerful organising theme for aspects of existing rights... which... are often given little priority” (Mendel 2003, pp. 5–6).

Calling for the realisation of communication rights and reaffirming that everyone has –or should have– a right to communicate are entirely complementary. The right to communicate can be used as an informal rallying cry for advocacy, appealing to a commonsense understanding and the perceived needs and frustrations of people in the area of communication. It can also be used in a formal legal sense, in which a “right to communicate” should take its place alongside other fundamental human rights enshrined in international law. “Communication rights” is a useful term that relates immediately to a set of existing human rights denied to many people, and whose full meaning can only be realised when they are considered together, as an interrelated group. The whole is greater than the parts. ■



Communication Rights and Freedom of Expression

Freedom of expression is a basic human right. But the idea behind communication rights contends that such freedom can be achieved only through securing a broader set of flanking rights. For freedom of expression to rise above the dominance of powerful voices, the hugely varying levels of access to power and to the means of communication in society, especially mass media, must be addressed.

*Communication rights demand that the conditions needed for a **positive cycle of communication** are, in practice, created. This cycle involves a process not only of seeking, receiving and imparting, but of listening and being heard, understanding, learning, creating and responding. Although we cannot oblige others to listen or to respond, communication rights would optimise the environment for this.*

Communication rights thus include a right to participate in one's own culture and language, to enjoy the benefits of science, to education, to participation in governance, to privacy, to peaceful assembly, to the protection of one's reputation, and more –are all contained in the “International Bill of Rights”.

(<http://www.unhchr.ch/html/menu6/2/fs2.htm>) It also requires measures to ensure diversity of media ownership and content, and a right for everyone to access the media.

A good entry point to the concept of communication rights is to contrast it with that of freedom of expression.

Freedom of expression rightly ranks among the sacrosanct foundation stones of all human rights. It is contained in numerous international Treaties, Conventions and agreements, and enshrined, in varying formulations, in virtually all national constitutions and legislation. The most frequently cited reference point is to Article 19 of the *Universal Declaration of Human Rights*, endorsed by every member of the United Nations:

Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Its strengths include simplicity and clarity, something that all of us can understand: both the weak and the mighty must have identical freedom to seek, receive and impart information. It is regarded as a central

pillar of democracy, protecting the right to call our rulers to account, vital to preventing censorship, an indispensable condition of effective and free media.

The question facing communication rights advocates in theory but also sometimes in practice is: *Why is anything more than freedom of expression needed?* Furthermore, given that such a basic right is still denied to many in practice, surely our energies should be focused on securing freedom of expression for all? Would securing freedom of expression not, in effect, secure communication rights?

The ideal from which freedom of expression draws its legitimacy is that of a *group of communicating individuals*, each with an equal right to conceive, impart and receive ideas from others and thereby to rationally arrive at decisions of mutual benefit –society as a kind of debating club. The trouble with this is that we do not live as a group of equally empowered individuals. *We live in a society of hugely varying levels of access to power*, a society in which most interactions between people are heavily mediated and filtered, with mass media, governments,



commercial corporations, special interest groups and many others all vying for attention, seeking to influence and control the creation process and the content and flow of communications.

An exclusive insistence on freedom of expression says too little about the process by which society's means of expression –such as newspapers, television, radio, films, music and educational material– are controlled, and the interests they ultimately uphold.

In this context, freedom of expression, in the form of laws to prevent direct government interference and to defend free speech, can do little to prevent the domination of the loudest voices, i.e. those who can most strongly influence the means of communication within society, whether they are the government, newspaper proprietors and media corporations, or powerful interest groups.

A poor person seeking to highlight injustice in their lives and a powerful media mogul each have, before the law, precisely the same protection for their right to freely express their views. In practice, however, the former lacks a means to have her/his voice heard, while the latter can powerfully amplify her/his message and ensure it is widely heard.

How real is “freedom to receive and impart information” if you cannot read or write, or speak the official language of the country? Or freedom to “seek and receive information”, where governments and corporations are under no obligation to provide it? Or you cannot afford to pay for educational material, or access key means of communication such as telephony or (increasingly) Internet? Or know your means of communication are being spied on? All of these are symptoms of unequal access to power, of a world in which communication is possible only through complex and contested media and mechanisms.

Thus, a key challenge for freedom of expression is the conceptual shift from the idea of a “college debating society” to a complex and variegated society with heavily mediated communication and varied and differential configurations of power.

Tackling this requires an additional set of concepts and instruments, and points to the core of the concept of communication rights. Supporters of communication rights must firmly stand by and promote the principle of freedom of expression. But a lot more is needed to articulate, let alone secure, communication rights for all.

What is the Goal of Communication Rights?

Communication rights can therefore be seen as providing the conditions for the full exercise of freedom of expression in a complex and mediated society where power and control of resources are distributed very unevenly.

However, we can go further, for communication rights are premised not only on “holding opinions” and “seeking, receiving and imparting information” –all of which are rights of a single individual or entity– but also on *communicating*; that is, on the completion of an *interaction between people*. They imply and seek to bring about a cycle that includes not only seeking, receiving and imparting, but also *listening and being heard, understanding, learning, creating and responding*.

The idea of communication rights maintains that freedom to interact with others is ultimately about generating a cycle of communication from which learning, understanding and cooperation may ensue. The miracle of language is not that we can encode our thoughts in an external form (spoken, written, film etc.), but that we can recreate a thought of our own in the mind of another, who can add to that thought and communicate it back, enhanced and transformed. We can share ideas, and, from that, new ideas emerge and human culture is furthered. Similarly, while freedom of expression guarantees that we can speak our thoughts freely, it by no means guarantees that another can or will listen and (re)transform such speech into new thoughts and actions. Communication rights thus imply, at least in part, the initiation of an ongoing cycle, without which language is just so many dead words.





An initial approximation of the goal of communication rights is thus:

To secure conditions for the generation of a creative and respectful cycle of interaction among individuals and groups in society which in practice endorses the right of all to have their ideas expressed, heard, listened to, considered and responded to equally.

The Paradox of Communication Rights

But here a paradox emerges, at the level both of human rights law and in practice.

The idea of communication rights implies not only that one has the right to speak and be heard, but that others have an obligation to listen, to consider the validity of the ideas expressed, and even to respond. Yet others cannot be *forced* to listen, let alone to understand or to respond, since that would be tantamount to a denial of their freedom of opinion, freedom to think about whatever they like, or nothing at all.

Is this an irreducible contradiction, or a paradox amenable to resolution? How can communication rights be realised if they *require* all parties to engage in active dialogue, although at the same time any *compulsion* to secure this (even were it possible) would deny one party a key component of those rights? In demanding that you listen to my argument and give it due consideration, I am also insisting that you entertain certain thoughts, or at least pursue a certain thought process. What right do I have to do that?

This contrasts with, for instance, the right to freedom of expression. It is possible to claim one's right to freedom of expression without simultaneously denying to another that same right. But the same cannot be said, it appears, of a person's communication rights. Thus, whether or not the right to express one's views is resolved into a cycle of communication would seem, if it is to avoid contradicting itself, to rest on the (arbitrary) willingness of another to engage in genuine dialogue. In practice, does not everyone have the right to refuse to communicate? Thus, one might argue,

is it not best to leave it at that, and revert simply to a right to freedom of expression?

This is not just an issue for arcane debate among human rights specialists. It is linked to very practical questions.

Should people have a right to have their views heard by others, to demand that others listen to their views? The question can be turned around: Should society ensure that the broadest possible range of opinions and views are disseminated via society's instruments of mass communication? Should there be a right of reply where opinions and ideas are misrepresented in media? Should there be an obligation on public authorities and private corporations to respond to legitimate questions of public interest? Should people have access to information and deliberations in centres of power that concern them?

These practical questions go beyond freedom of expression –to seek, to receive and to impart– towards communication rights, and in the paradoxical direction of the obligation on others to respond and interact.

Communication Rights Beyond Freedom of Expression

The paradox can be resolved. Freedom of expression is indeed at the heart of communication rights. But communication rights must be built *on the basis of a set of additional rights* that construct the environment in which freedom of expression may be fully consummated at the level of society, and indeed surpassed, through a full and rounded cycle of human interaction and communication.

Communication rights draw on aspects of other key human rights –“flanking” or “enabling” rights” – contained in the three main human rights agreements (also known as the International Bill of Rights): the *Universal Declaration of Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966) and the *International Covenant on Economic, Cultural and Social Rights* (1966); and supplemented by many other Treaties, Declarations and legal precedents.



The following are all legally binding human rights explicitly granted by these agreements (though enforcement is a different matter):⁷

- A right to participate in one's own culture, and use one's mother language, including ethnic, religious or linguistic minorities;
- A right to enjoy the benefits of scientific progress and its applications;
- A right to information regarding governance and matters of public interest (freedom of information);
- A right to the protection of the moral and material interests of authorship;
- A right to one's honour and reputation, and to protection against unwarranted damage to them;
- A right to privacy;
- A right to peaceful assembly and association;
- A right to self-determination and to take part in government;
- A right to free primary education and progressive introduction of free secondary education.

Although not usually their primary intent, at least a dimension of each of these bears strongly on the process of communication in society (all could be suffixed with “in relation to media and communication”).

These might be termed “top-level” communication rights. However, they are further specified, and sometimes additional dimensions added, in other international and national fora and legal precedents.⁸ A very important example is the right to a diverse and independent media, and to access the media, interpreted as a right in fora as

diverse as the European Court of Human Rights, Supreme Court of Sri Lanka, the German Federal Constitutional Court, UNESCO Declarations, and Resolutions of the Council of the European Union (Article XIX 2003).

Some communication rights aim at overcoming barriers to listening, such as prejudice, hatred, discrimination and intolerance. They advocate cultural and social self-determination, appeal for a sensible balance between rewarding creativity and ensuring that all can reap the benefits, and promote education. Together they widen access to information, culture and knowledge that comprise the substance of communication; protect against various abuses of communication from public and private sources; and reinforce the capacity of people to participate in culture and creativity, and in governance and policy. At the same time, communication rights establish more clearly the basis for the limits to freedom of expression, for instance, in cases of incitement to hatred or violence, or deliberate and unjustified character assassination.

By breaking down barriers, putting in place enabling mechanisms and enhancing self-determination, communication rights build an environment in which people are better equipped to receive messages, to understand and respond to them, and to communicate critically, competently and creatively. They nurture an environment of tolerance and mutual respect in the context of communication.

This, then, is the resolution of the paradox. Communication rights do not seek to impose an absolute obligation to listen and respond. Rather, they build an environment in which interaction and communication are more likely to occur freely and to mutual benefit. At the end of the day, of course (with a few important exceptions around freedom of information and so forth), deciding to communicate with others is a free choice.

Communication rights attempt to strip away layers of social, historical, economic and psychological barriers to communication, to reinforce an environment of mutual respect, and to build the capacities of all in communication and interaction. ■

⁷ See Annex 2 for the full text.

⁸ See Hamelink 2003 for a review of other relevant international instruments.



The Value-Added of a Right to Communicate.

For communication rights, the whole is greater than the sum of the parts in several ways.

- *Without communication rights, freedom of expression can privilege the powerful. With them, it can achieve its full potential.*
- *Communication rights have implications for social and collective rights, beyond those of the individual, since they assert the right of cultural and ethnic groups, of language communities and others. Support for diversity is also integral to communication rights, through the high value attached to mutual respect and tolerance.*
- *Communication rights cannot be construed as simply about communication between equal individuals. They already imply social structures that differentially constrain and enable the capacity of different groups to communicate. They thus point to changes to, and the governance of, inequitable social structures and dynamics.*

This interpretation of communication rights has a number of implications, both for human rights and in practice, that take it well beyond the right to freedom of expression.

First, the whole is greater than the sum of the parts. Communication rights bring together relevant dimensions from a set of component rights that constitute the circumstances and environment for communication. The whole, the set of communication rights, yields something more than the sum of its parts: freedom of expression, protection of privacy, the right to cultural expression, and so forth. A right to communicate transforms mere expression of opinion (potentially) into interaction, and deepens understanding. It turns imparting knowledge (potentially) into learning. In this respect, communication rights can, in an important sense, be seen as *meta rights*.

For instance, effective enforcement of freedom of expression might not, as already noted, on its own result in enhanced communication society-wide. The absence of plural media and of a widely available means to access and disseminate content and opinions via the media; the “chilling effect” of surveillance and the absence of privacy; or the dominance of a single language may each present decisive obstacles to communication. Freedom of ex-

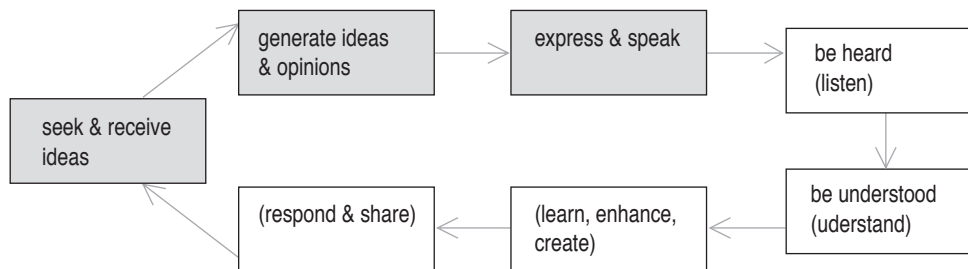
pression may, in practice, be freedom merely for a few, and indeed few others may choose to listen.

Thus, while communication rights can be realised only through a set of enabling rights, securing them at the same time gives new and additional meaning to those enabling rights. The dividend comes through the empowerment of all as equals within the communication arena, and the potential for a virtuous cycle of communication. This generalised capacity for ongoing dialogue, in turn, leads to further communication, and to a cycle that ultimately deepens democracy, mutual understanding and respect.

Second, an integral part of the emergence of communication rights in practice is the creation of a climate of mutual respect and tolerance, not just between individuals –although these rights are held by individuals– but between diverse communities and cultures, ethnic groups and nationalities. Calling for communication rights at the same time endorses and supports the notion and value of diversity, since at its core are processes of listening, exchanging ideas and mutual response. Communication rights cannot be achieved by imposing uniformity of thought, but only by accepting and valuing diversity as a starting point. Thus, communication rights have major implica-

BOX 1: THE SOCIAL CYCLE OF COMMUNICATION

The contrast and complementarity between freedom of expression and communication rights can be illustrated as follows: The Cycle of Communication



The shaded boxes represent the domain of individual freedom of opinion and expression. Adding the others constitutes the domain of communication rights, insofar as they create the environment for the communication process to be realised. The “other”, i.e. the second party in communication, is in brackets, signifying also a free decision to participate.

Even between formally equal individuals, each step may encounter potential constraints and barriers to cycle completion: level of education, capacity to articulate, language differences, cultural prejudices, and so forth. Although in principle there is equality, in reality barriers can significantly distort the outcome. Transposing this to the level of society hugely exacerbates the situation, since a set of social, economic, political and cultural obstacles comes to the fore with differentiated impact on people and groups according to their access to power in society. Thus, the high cost of seeking and receiving ideas, driven up by copyright monopolies, is prohibitive for whole classes of people; lack of access to the means to generate ideas, from educational capacities through to media tools, can exclude many; centralised control of mass media, whether by government or corporations, can deprive the (poor) majority of the means to air their concerns; lack of access to media, for instance, mother tongue newspapers or telephony and ICTs, can make it difficult to hear the voice of others and to interact with them.

For these kinds of issues, even the most forceful implementation of freedom of expression is insufficient. The situation demands the more comprehensive and proactive implementation of communication rights. The challenge, just as in freedom of expression, is that even existing communication rights are too often ignored on the ground by national authorities and others responsible.

tions for social and collective communication, and for diversity. Supporting communication rights is not just staking a claim for individuals; it has immense implications for relations among and between groups and societies, and for how we approach such issues as difference and diversity.

Finally, communication rights unavoidably implicate social processes and dynamics. Communication rights cannot be fully understood in the context of, or using the metaphor of, a group of interacting individuals. By their very nature, they

point directly to questions of whether *social* structures differently constrain and enable the capacity of different individuals and groups to communicate effectively in society. The concept of communication rights forces us to engage much more comprehensively the spirit of “freedom of expression” as a freedom that demands not simply the absence of constraints on individuals, but also both the elimination of constraints on whole sections of society and the creation of instruments and resources to build the access and capacities of those who are excluded. ■

Are Communication Rights Enough?

The legal constitution of rights is not in itself enough. Far from it, even when legally binding, mechanisms are needed to make it possible to establish non-compliance. Redress must be available, and sanctions must be enforceable. Communication rights established in international law have none of these. Most governments have tried to incorporate international laws in national law. Yet they are often undermined by exceptions, and weakened by qualifications. Some governments fail to enforce even their own laws.

We have argued that freedom of expression, in itself, is insufficient to guarantee communication rights in any meaningful sense. In reality, it may simply mean that the voices of the powerful dominate, while others are stifled. We have also pointed

to a set of additional rights enshrined in international law that together offer a much broader range of rights, and that have the potential to greatly enhance communication rights. But can people exercise these rights in practice?

BOX 2: ENFORCING FREEDOM OF EXPRESSION

Article 19 of the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* (ICCPR), as we have seen, are intended to guarantee freedom of expression. But unlike the former, the latter includes a mechanism for enforcement.

However, there are limitations. As a Treaty Rule, its binding force applies only to states that have ratified the treaty. (A treaty comes into effect only when it is ratified by legislation in each signatory country, which can be much later or, in some cases, never.) Furthermore, derogation from this Article, unlike for some others, is permissible.

The means of enforcement is based on an Optional Protocol to the ICCPR (meaning it is not obligatory to subscribe to it), and on Resolution 1503 adopted by the [UN Economic and Social Council] (ECOSOC) in 1970. The former authorises the Human Rights Committee of ECOSOC, made up of eighteen experts, to receive and consider communications from citizens of signatories of the Optional Protocol who claim to be a victim of a violation of the rights contained in the covenant. The Protocol provides for communications, from governments and others, including the complainant, as well as for analysis and reporting. The procedure is slow and confidential, and at the end of it all, there are no sanctions or compensatory measures available. The most that can be done is the publication of the evidence, along with the Commission's views on it. In practice, even these possibilities have never been fully exercised by the Commission.

Although it is an important mechanism since it is one of the few that asserts the right of an individual as against the rights of a state, it is hardly surprising that few have ever embarked along this route. (from Ó Siochrú *et al* 2002)



This, of course, is the problem. Although the International Bill of Rights is legally binding on all signatory countries, its implementation is another matter.

If an individual feels their government is not living up to its commitments, these instruments offer only very limited and ineffectual means of redress. Though they are legally binding, it is difficult to establish non-compliance. And where this can be established, sanctions are virtually nonexistent. But even were sanctions to hand, there are no means to enforce them.

And, although governments are obliged to translate these agreements into national-level legislation, little can be done to those that fail to comply.

Nevertheless, almost all governments have attempted in one way or another to apply these through national law – governments are generally under internal and external pressure to produce at least a semblance of compliance. Unfortunately, it only too often goes no further than that.

Widespread failure to comply with the spirit and arguably the letter of international law in relation to communication rights should come as no surprise. Though the international Bill of Rights may have significant moral power, change does not emanate from such top-down directions. The Bill of Rights represents a benchmark of aspirations initiated at a time when global conditions allowed for them to be fixed at a reasonably high level, in the aftermath of the human catastrophe that was the Second World War. Thus, the existence of communication rights at the level of international law is both an inspiration and a practical advocacy tool that can be used to exert pressure at all levels. While a goal must be to strengthen these rights, the means to achieve this primarily lie outside of international law.

The next section moves towards the idea of communication rights on the ground, and specifically addresses the trends that are currently influencing them. ■



Communication Rights: Why Now?

A set of global dynamics gives communication rights special relevance today:

- *Mass media are now dominated by a few global corporations. This significantly biases content towards profit generation and reduces diversity of sources and content.*
- *Mass media play a growing role in identity formation and cultural processes, but these are shifting towards an unsustainable individualist and consumerist ethos.*
- *The ongoing extension of copyright duration and stiffer enforcement in the digital area, is impeding communication and use of knowledge, and the public domain is shrinking.*
- *Access to ICTs, and their use to tackle poverty and exclusion, has almost ground to a halt under neo-liberal policies.*
- *Under the pretext of a “war on terrorism”, civil rights in the digital environment are being severally eroded.*

These trends emerge alongside ongoing discrimination against minority language groups, “traditional” denial of freedom of expression by governments, and numerous other curtailments of communication rights.

At this point, a legitimate question may be posed. Why is it that “communication rights”, as a concept, is especially relevant now, more than it was in the past?

Put from the perspective of the argument above: Even allowing that communication rights are valid as a concept, is it not sufficient to maintain a focus on achieving freedom of expression and working outwards from there? Do recent dynamics and circumstances justify the creation of this new concept of communication rights?

The answer is “yes”. Communication rights have grown greatly in relevance in the last decades, due to a number of factors including the following.

- Corporate Media Dominance
- Identity and Culture
- Copyright and Public Domain
- Universal Service and ICTs
- Civil Rights in the Digital Environment

Corporate Media Dominance

Direct government control and manipulation of media, long regarded as the major threat to freedom of expression, is in significant decline in all regions of the world. Governments worldwide are relinquishing the crude instruments of direct censorship and state-controlled media. The mushrooming of alternatives to government media and of the Internet has rendered it almost (but only almost) impossible to exert direct control. Though much remains to be done, freedom of expression has thus received a major and welcome boost.

The trouble is that increased freedom of expression is not generating a corresponding flowering in media diversity, including diversity of content and plurality of sources. While the sheer volume of media outlets and channels has increased, evidence suggests that –following an initial opening in hitherto repressed countries– the diversity of views represented, and of the sources and formats of these views, is very narrow. This is largely the



result of the commercialisation of media and a focus on generating profits, and of the concentration of ownership into fewer and fewer global corporations. Genuine public service media, where it exists, is under threat; and where it does not, is perceived by governments as an expensive and possibly less compliant option than commercial media. Community media in their many forms (citizen's media, autonomous media, civil society media etc.) are struggling hard, but still receive minimal recognition or active support, and progress is slow. The net effect is a corporate, consumerist and northern bias in global mass media, inadequate local media in most poor countries, and little or no media directly focusing on and arising from people's needs and interests.

Yet, as we have argued, the idea of freedom of expression is incapable of tackling these new forms of corporate media dominance, either conceptually or in terms of the instruments available to it. In fact, freedom of expression, narrowly defined, is largely compatible with corporate media dominance, especially in jurisdictions where corporations are deemed, just like people, to have a right to freedom of expression.

Freedom of expression can also do little to counter emerging links between government leaders and private media industry, in explicit forms, in countries such as Italy and Thailand, where respective Prime Ministers Berlusconi and Thaksin control much of the media; in more or less hidden forms, as in the Russian President's manipulation of media; or in more subtle forms, as in the United Kingdom, where Prime Minister Blair and Rupert Murdoch's media empire are believed to have struck a mutually beneficial deal.

In these situations, robust measures are needed to actively bring about genuine and broad diversity in content, ownership and opportunity to participate, such as firm regulation of commercial media to limit concentration and cross-ownership, greater accountability of government and public participation in media policy, and positive support for government-free public service and com-

munity or independent local media. These are all aimed at securing broader aspects of communication rights.

However, the value of the concept of communication rights does not rest simply on the fact that freedom of expression is largely redundant against this new threat. A number of other issues also loom above the process of communication in society.

Identity and Culture

Media commercialisation affects more than simply media content. Many are concerned that it also has a strong tendency to promote the homogenisation of identity and cultural expression towards a consumerist ethos, which values consumption of goods over all else and contributes to the environmental threats faced by the planet. Commercial media and advertising, by their own admission, are central to a dynamic of ever-growing consumption by the middle classes and wealthy, that in turn boosts ever-growing production, consuming more resources and fueling environmental degradation.

Copyright and Public Domain

Threats have also emerged to the creative capacity of society.

Many argue that ever-lengthening duration of copyright and concentration into corporate hands, the imposition of uniform copyright regimes and their extreme enforcement through the WTO are leading to the "enclosure" of knowledge into profit-generating corrals and the effective denial of access to much of it, especially by poor countries and communities. With the digitisation of much knowledge, contractual arrangements supported by Digital Rights Management are threatening even limited existing rights to fair use for educational or non-commercial purposes. Again, a key moment in the communication cycle is under threat.





Universal Service and ICTs

In terms of achieving universal access and effective use of postal services, telephony and ICTs, including the Internet, progress appears to have ground to a halt. Claims that liberalisation and privatisation can address the “digital divide” have proven unfounded.

Since 1999, investment in telecommunication has slowed greatly, growth has stalled, and evidence suggests the market-driven approach has reached its limits. Having satisfied highly profitable pent-up demand, there is little appetite for investment to reach lower-return users at national or international levels. The biggest losers are rural areas and poorer communities, still underserved or unable to afford the available services.

Innovative technologies are still emerging, but for similar reasons, enthusiasm for experimenting and implementing them has waned. A period of consolidation has set in, and those looking to the private sector, including the G8's DotForce and WSIS, to bridge the “digital divide” are to be disappointed. The market-driven logic of provision, lacking firm international and national political will to implement effective universal access policies, and still traumatised by the late 1990s spending spree and subsequent hangover, has stalled where huge profits tail off, far short of reaching areas of most need. Donor-led, and sometimes successful, attempts to reach these users outside the market, promoting community access, low

cost technology etc., can do little to compensate for such systemic failure.

What is needed is a paradigm shift to one or more alternatives that place people, rather than profits, in the driving seat. In addition to focusing on those in most need, appropriate technology development and consideration of environmental cost and benefit are also important.

Civil Rights in the Digital Environment

Finally –though this list is by no means exhaustive– there are huge concerns about the erosion of civil rights in the emerging digital environment. Often in the guise of anti-terrorist measures and reinforced by “mission creep” and policy laundering (effectively, the “cutting and pasting” of policies developed in the USA or the EU into the national strategies of resource-poor countries), there is widespread and growing Internet surveillance and control. Commercialisation of cyberspace is also opening to new forms of corporate censorship, exerted through reluctant ISPs, search engines and bandwidth retailers. For some of these, “traditional” defences of freedom of expression can be deployed; but others, such as the emerging corporate element, require new concepts and solutions.

All of these concerns and fears can be conceptually analysed and understood using the concept of communication rights. ■



A Worst-Case Scenario

In a worst-case scenario, the risk to society is great. A severe deterioration in the communication cycle of society could enfeeble democratic debate and participation, undermine creativity, and severely constrain individual and collective interaction and mutual understanding.

Communication rights underline the role of communication in the reproduction and sustainability of economic, social, cultural and political processes.

In combination with ongoing and “traditional” denials of communication rights, these dynamics greatly influence each step of the communication process in society.

Earlier, the process of communication and interaction was illustrated to highlight interactions and dialogue between people. (Box 1) At the level of society –it was noted– communication may be seen as a cycle of interactivity through which key social components relate to each other, completing a process of knowledge generation, mutual exchange and learning, and potentially enhancing the social wellbeing of all. As with individuals, the process constitutes a series of “moments” in a cycle that runs through creativity, communication, access, interaction, mutual understanding and learning, and on to further creativity.

The illustration below recalls this earlier one, but with an emphasis on how knowledge is embedded in economic, political and cultural structures.

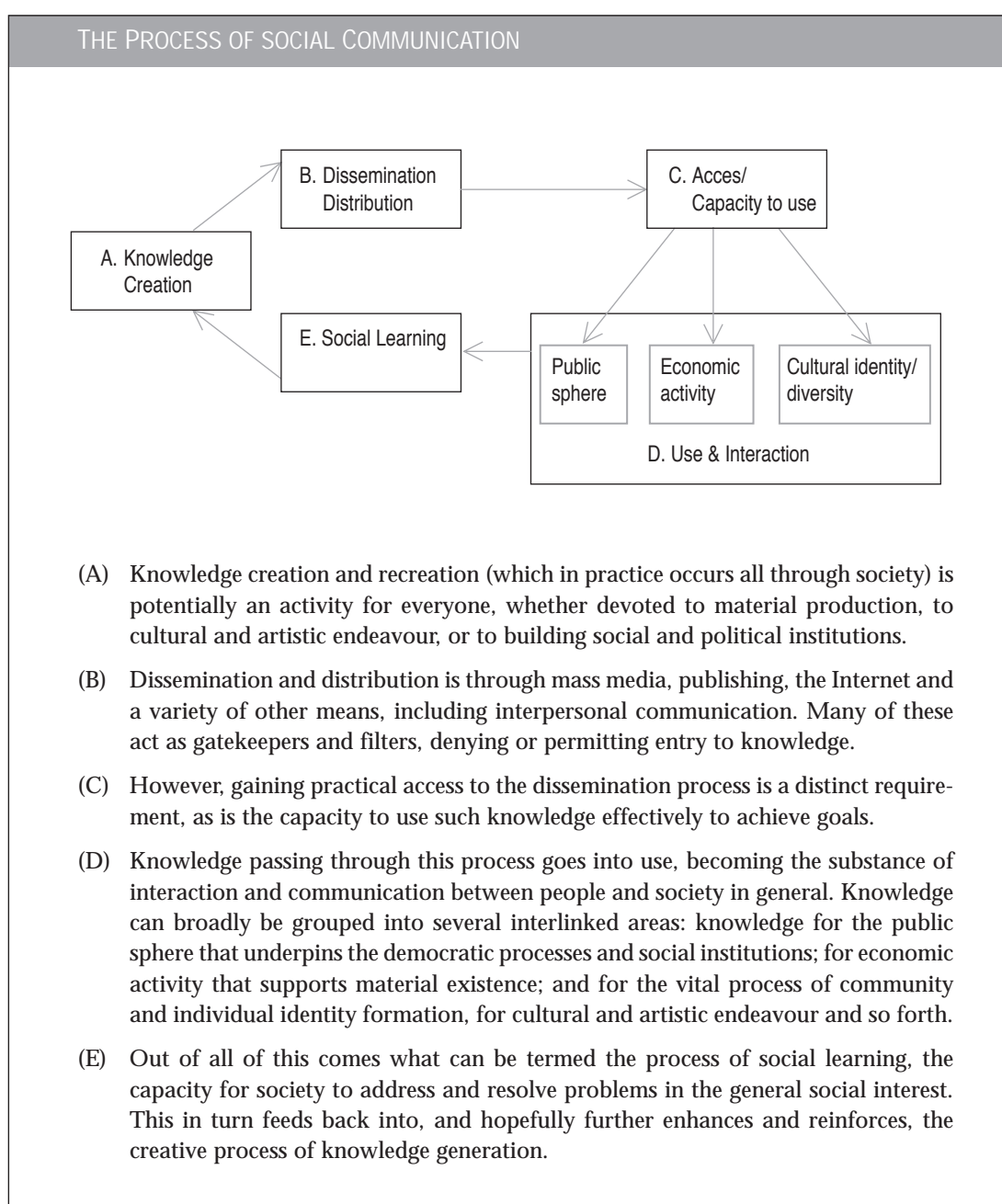
In a positive cycle, all sections of society benefit from more fertile and widespread creativity, broader distribution and deeper interactivity and more profound levels of mutual understanding and social learning. These feed into more democratic social institutions, sustainable economic activity, and diverse and rich cultural life.

Of course, this is highly schematic and simplistic. Creativity, knowledge and learning are involved at every stage, and cannot be functionally isolated out. Media are integrally involved in the public sphere, in culture and so forth. However,

splitting the process into these “moments” enables us to distinguish more clearly the impact of the dynamics outlined earlier on the social communication process. Such impacts include:

- The process of knowledge creation (A) is deeply influenced by the regime of knowledge ownership. Excessive concentration of knowledge ownership into corporate hands, with extremely powerful copyright enforcement, has a major influence on the distribution of social incentives for creativity in society. The “culture industries”, for instance, highly reward only a few artists and largely ignore the rest; investment is channelled only towards commercially profitable activities; and audiences are targeted according to their profit maximisation potential (C).
- Excessive concentration of media ownership can have a somewhat similar impact (A). Resources are directed towards journalism and content production that maximises profits; media concentration can generate specific distortions in information reaching the public sphere (D), biased towards media owners and corporate capital generally.
- Commercialisation of media (C) can lead to many being priced out of access to media. Coupled with advertising, (D) it generates a strong bias towards untrammelled individualist consumerism in the cultural and economic spheres, and generally contaminates the cultural environment.

- Liberalisation and privatisation in telecommunication, if driven solely by commercial interests, can seriously limit access to electronic sources of information and means of communication (C).
- The erosion of civil rights in the emerging digital environment can inhibit dissemination of electronic material through censorship (B); and limit interaction in the public sphere (D).





Thus, these trends between them can fundamentally shape the outcomes of social communication and who benefits from the process, through controlling the creation and ownership of knowledge, the processes and media of dissemination and communication, and its use to solve political, economic and social goals. The imminent danger is that each moment in the cycle is becoming harnessed to the needs of capital and the market. The source of creativity becomes contaminated, and the flow of knowledge is interrupted at various points in the process, the fruits of creativity diverted to feed ever more powerful and wealthy corporate interests. It is a gradual hollowing out of social communication, much of its value sidetracked and stockpiled in corporate coffers.

The ultimate danger is that the cycle of society's social communication process is interrupted, the process of social learning becomes ever more feeble, and in the end the process of creativity is transformed and reduced to short-term, unsustainable, generation of profits to benefit a small minority. Society may find itself before too long having virtually lost the capacity for creativity, for an inclusive and equitable sharing of knowledge, for democratic participation in our political structures, for diverse cultural expression and expression of identity, even the capacity to learn from past and present generations.

“Communication rights”, as a concept and as practice, potentially has the depth and breadth needed to tackle these dangers. ■





The Case for a United Front

A case can also be made that these apparently diverse issues must be tackled together, as an ensemble.

First, the root causes, the driving forces, of many of these are interlinked. Behind most is the global agenda of unregulated capitalism with its tendency to monopoly, private ownership and consumerism. Wielding enormous political and economic clout, its logic is forcefully impressed upon every barrier it encounters, whether resistance to the destruction of the public sphere, efforts to protect cultural diversity, or a desire to deploy the fruits of human creativity for the greater social good. The need to maximise profits, and to create the ideal conditions for this, endeavours to sweep aside such obstacles and transform the world in its own market-driven image.

Second, there are many linkages and interdependencies between the industrial sectors driving the process, and their dynamics are intertwined. Global media corporations are central actors almost everywhere, often incestuously entwined, and the line between them and telecoms companies and ISPs has long been blurred. These in turn are closely associated with a small number of powerful governments. Such interconnectedness means that, on the one hand, it is almost impossible to

deal with each domain in isolation; but, on the other, a campaign can gain leverage in one domain by working on another.

Third, many of these issues fall under the sphere of influence of the WTO, especially under TRIPS and GATS. This is no coincidence, since corporate and government interests long ago identified the WTO (then the GATT) as the most amenable, controllable and powerful of the global governance organisations. Suitably armed, it could ride roughshod over the UN agencies, human rights and development instruments.

All suggest that tackling any of these issues in isolation would be ineffectual. The main actors, interests and strategies are too interdependent for them to permit any one area to submit to change. Indeed, their success in pushing their agenda globally has relied heavily on acting collectively, and on shared, often arms-length, agendas – a good lesson for the opposition to learn.

The advantage of communication rights is that it can embrace such diversity within a single conceptual framework, which in turn strengthens the potential for broad-based concerted opposition and the development of comprehensive alternatives. ■

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3

The assessment framework: theory and practice



Structuring Communication Rights

The overall goal of the Assessment Framework is to enable civil society groups to generate an understanding of communication rights, the reality of their implementation and key issues in a given environment, and to plan actions that can help improve the situation in practice. The previous section offers several ways in which communication rights can be conceptually grouped, depending on what we have in mind and the perspective we take.

For instance, we can group them as relating to main holder of the right (children, cultural communities, journalists, women etc.); or we can group them according to the formal nature of the rights as they are ordered in the main international instruments (e.g. social, political, civil and cultural). Looking from the ground up, we can consider them in terms of those most threatened or least enforced.

For this exercise, of conducting an assessment of their current empirical status with a view to action, we have chosen to group them under **FOUR PILLARS** that we feel can both be manipulated conceptually and organised around in practice.

Each Pillar relates to a different domain of social existence, experience and practice, in which communication is a core activity and performs key functions. The rationale for the four is that each involves a *relatively autonomous sphere of social action, yet depends on the others* for achieving its ultimate goal –they are necessary interlocking blocks in the struggle to achieve communication rights. Action can be coherently pursued under each, often in collaboration with other social actors concerned with the area more generally; while bridges can and must be built to the other areas if the goal is to be achieved.

Significant progress and improvement can be made in each Pillar, but the greater the progress, the more it becomes clear that issues covered by other Pillars must also be tackled. The concept of communication rights is, in this sense, *immanent* within this grouping of Four Pillars of communication rights.

Each of the Four Pillars is outlined below. Annex 2 contains the detailed Framework, including a set of practical questions associated with each of the Pillars. ■

Four Pillars of the Framework

Communicating in the Public Sphere

The **First Pillar** of communication rights relates to the existence of spaces and resources for the public, everyone, to engage in transparent, informed and sustained democratic debate. It is vital that our political structures prioritise the creation of such spaces and provision of such resources. At the same time, there are political and economic forces opposed to this, whose power base and privileged positions would be threatened.

Access to knowledge of public interest, its aggregation, processing and manipulation in relation to matters of public concern, and its dissemination and circulation within society are central. Governance of mass media, and means for people to interact, are thus at the core of this. We call this **Pillar Communicating in the Public Sphere**.

Communication Knowledge

The **Second Pillar** looks at the communication and exchange of knowledge more broadly, and not just of that knowledge essential to public debate and democratic interaction. The goal is to create a regime where creative ideas and knowledge are encouraged, that can be communicated as widely and freely as possible for education, enlightenment, practical application, entertainment and other uses. Furthermore, a distributed and decentralised structure of production and communication of knowledge is desirable, geographically and among different groups and communities.

Inherent dynamics pull in different directions here, too. An example is in the area of copyright. The original role of copyright was to strike a balance between, on the one hand, granting monopoly control over the communication of knowledge for a limited period, thereby creating an incentive for further creativity, and on the other, releasing it into the public domain for use by, and benefit of, all.

However, “knowledge products” have become a massive industry, and copyright is now in prac-

tice largely controlled by private corporations, and so the underlying dynamic has changed. Today, controlling demand for, and production and communication of these “knowledge products” is critical to maximising profits and extracting them into private hands. The current tension is between those who want to return to the original rationale behind copyright and build a new regime that both encourages innovation and creativity, and maximises the use of knowledge; and those corporate and government interests that seek to maximise profits to industry.

Meanwhile, huge sections of the population lack means to gain access to information and to use it effectively, even were it in principle in the public domain. Affordable universal access to conventional and ICT-based networks is an important goal in this respect, in forms that are built from the bottom-up, based on real needs.

This **Second Pillar** we call **Communicating Knowledge for Creativity and Equity**.

Civil Rights in Communication

The **Third Pillar** is about ensuring that civil rights associated with communication of all kinds are secured, and the need to protect the dignity and security of people in relation to the communication process. It includes the right to defend one's reputation against attacks by the media, one of a few areas in which the exercise of civil rights necessarily limits media freedom. It also includes a right to know what happens to information you provide, or is gathered about you.

Led by the US and UK, the growth in the global “security” agenda, and all that entails, has begun to seriously undermine established and previously enforced rights in this area, and has given governments all over the world a welcome pretext by which they can control information flows and communication to their own ends. This is especially the case in “cyberspace”, where the ground rules are still only being established. Thus, important here are the right to privacy in



TABLE 1: THE FOUR PILLARS

A. Communicating in Public Sphere: Concerning the role of communication and media in exercising democratic political participation in society.
B. Communicating Knowledge: Concerning the terms and means by which knowledge generated by society is communicated, or blocked, for use by different groups.
C. Civil Rights in Communication: Concerning the exercise of civil rights relating to the processes of communication in society.
D. Cultural Rights in Communication: Concerning the communication of diverse cultures, cultural forms and identities at the individual and social levels.

communication and freedom from surveillance. This Third Pillar is called **Civil Rights in Communication**.

Cultural Rights in Communication

The **Fourth Pillar** covers another key function, that of enabling the communication of diverse cultures, cultural forms and identities at the individual and social levels. Communication is central to the production, practice and reproduction of culture and identity. Goals include encouraging diversity of cultural forms and cultural authenticity based on real human experiences and possibilities, and respecting, preserving and renewing existing cultures. It is also inadvisable and impossible to divorce culture from human goals of peace, global equity, and sustainability, and from human rights including where local culture can be at the expense of human rights. The modalities and forms by which culture is communicated and disseminated, increasingly through various mass media, are central to the outcome.

One major concern here is a process of cultural homogenisation caused by the commodification of communicated (or mass media-driven) culture, and an emerging dominance of “for-profit culture” produced in a few global and regional centres. This has serious knock-on effects on both individual and collective identity formation, fragmenting some cultural forms and encouraging an unsustainable consumerist ethic, both individually and collectively. Linguistic segmentation of the world based on the dominance of English in economy, politics and culture, is a further cause for concern, since it is accompanied not just by the elimination of many languages but by the effective exclusion of many people from these discourses. Finally, in many societies minority cultures are seriously discriminated against in terms of recognition and communicating within the national cultural context.

The **Fourth Pillar** we call the **Cultural Rights in Communication**. ■



Key Rights Associated with Pillars

Each of the Pillars encompasses a set of key, somewhat overlapping, components relating to communication rights as defined by international law and more broadly by international agreements. But each also has rights associated with them that are not specific to, or directly related to, communication. These are worth identifying, since they might suggest directions for collaboration with other social actors.

Reference is made below to rights relating to communication, even where indirect, contained in the International Bill of Rights (the acronym and article of the appropriate instrument are in brackets: see Annex 2.). However, many are considerably elaborated, broadened and deepened in the context of a whole range of additional international conventions, declarations and other instruments, as well as precedents in national law, too numerous to mention here.⁹

Rights relating to Pillar A, *Communicating in the Public Sphere*, include:

- Freedom of expression, including the right of the media to operate freely (UDHR 18, 19, 21, ICCPR 19);
- Access information from public and private sources that pertains to the public interest (UDHR 19, ICCPR 19);
- A diverse and plural media, in terms of sources, content, views and means of transmission (UDHR 19, ICCPR 19);
- Universal access to the media necessary to engage with the public sphere, including direct communication and a right to assembly (UDHR 19, ICCPR 19, 21, 22).

An effective public sphere also requires rights not directly related to communication, such as the right to literacy and to a basic education (UDHR 26, ICESCR 13).

⁹ For a fuller account, see Hamelink, Cees (2003), "Human Rights for the Information Society", in *Communicating in the Information Society*, eds. Bruce Girard and Seán Ó Siochrú, UNRISD, Geneva. www.unrisd.org for the full text.

Those relating to Pillar B, *Communicating Knowledge*, include rights to:

- A knowledge-communication regime that both encourages creativity and maximises sharing (UDHR 27, ICESCR 15);
- Affordable and equitable access to the means and media for knowledge-sharing (UDHR 19, 27, ICCPR 19, 27);
- Reasonable access to the material means to produce ideas and disseminate them via media (UDHR 27, ICESCR 15);
- Skills and capacities needed to utilise media and communication effectively (UDHR 19, ICESCR 15, ICCPR 19).

Rights regarding knowledge and ideas that do have an indirect communication component include: the right to apply knowledge in practical ways such as industrial patents (UDHR 27), and the collective right to determine the appropriate use and protection of our natural heritage (e.g. patenting of life-forms), and of culture knowledge (e.g. patenting of indigenous knowledge and bio-piracy).

Those relating to Pillar C, *Civil Rights in Communication*, include rights to:

- Protection against incitement to legal discrimination (UDHR 7, 12 ICCPR 10, 17, 20);
- Protect one's honour and reputation (ICCPR 17, 19.3);
- Privacy and protection of personal data and information, held by you or others (ICCPR 17);
- Privacy of personal communication (ICCPR 17);
- Freedom from excessive workplace and public surveillance in communication.

Civil rights that relate indirectly to communication include a right to freedom of assembly, to safe and healthy working conditions, including for journalists (ICESCR 7).

Pillar D, *Cultural Rights in Communication*, includes rights to:

- Communicate in one's mother tongue in key spheres such as politics and media (ICCPR 10f, 27);
- To participate in the cultural life of the community, via national and other media and communication structures (UDHR 22, 27, ICESCR 15, ICCPR 27);

- Support for balanced sharing of all cultures and identities, promoting understanding and tolerance (UDHR 22, 27, ICESCR 15.4).

Here, too, other rights are relevant to culture that do not bear directly on communication. These include the right to education, basic freedoms that are a precondition of creative activity (ICCPR 25), the right to freedom of religious thought, and so forth.

TABLE 2: BASIC FRAMEWORK STRUCTURE

A. COMMUNICATING IN PUBLIC SPHERE	B. COMMUNICATING KNOWLEDGE	C. CIVIL RIGHTS IN COMMUNICATION	D. CULTURAL RIGHTS IN COMMUNICATION
<p>A1: Freedom of expression.</p> <p>A2: Freedom of the press and media, including electronic.</p> <p>A3: Access to, and ready availability of, public and government information.</p> <p>A4: Access to corporate information.</p> <p>A5: Diversity and plurality of media and content.</p> <p>A6: Universal access to relevant media.</p>	<p>B1: A balanced knowledge-sharing regime, with practical support measures.</p> <p>B2: Publicly funded knowledge enters the public domain.</p> <p>B3: Affordable and equitable access to all media for knowledge-sharing.</p> <p>B4: Availability of relevant knowledge for all communities.</p> <p>B5: Widespread skills and capacities to use media, especially ICTs.</p>	<p>C1: Right to equality before the law, to honour and reputation.</p> <p>C2: Information privacy and data protection.</p> <p>C3: Privacy of communication.</p> <p>C4: Communication surveillance in public and workplace.</p>	<p>D1: Communicating in one's mother tongue.</p> <p>D2: Participation in the cultural life of one's community.</p> <p>D3: Stimulate the sharing of culture and cultural identity.</p>
<p>E: INTERNATIONAL DIMENSION OF COMMUNICATION RIGHTS</p> <p>E1: The role of non-national, transnational and cross-border media and communication.</p> <p>E2: The role and relevance of international agreements.</p>			
<p>F: DEMOCRACY AND PARTICIPATION IN COMMUNICATION GOVERNANCE</p> <p>F1: Effective participation by civil society in governance nationally.</p> <p>F2: Effective participation by civil society in governance transnationally.</p>			



Cross-cutting Communication rights

Finally, a few rights cut across all Four Pillars.

First is the extent to which rights contain a trans-frontier dimension, explicitly referred to, for instance, in Article 19 of the Universal Declaration of Human Rights (UDHR 19). Other aspects concern the legal enforceability of existing rights at the international level, including going beyond the Bill of Rights to include other international agreements to which governments have committed themselves; and to the relative absence of governance structures beyond the national level for communication and media-related matters.

The second area straddling all Pillars is the right to participate meaningfully in the formulation and governance of the communication sphere, in prin-

ciple and practice. These include the right to active participation in the formulation of laws, policy and implementation affecting these areas (UDHR 21, ICCPR 1, 25) at national level, but also in the context of international relations. The right and the capacity of all people to participate actively in the formation and governance of the process of social communication, as the hub of interactions within society, is a central dimension of all Pillars. It articulates the difference between the right merely to “access” information and communication, and the right to actively engage in, create and recreate, society's communication processes.

In the following sections, each of the Four Pillars is explored with reference to the four national areas in which they have been applied. ■





The Pillars in Practice

The national research reports, from Brazil, Colombia, Kenya and the Philippines, were by no means uniform. Although they all conformed to the outline above, considerable freedom was permitted, and taken, in relation to what to focus on and how to organise the material. Below, a flavour of a few of the issues arising is presented. A single issue is highlighted to illustrate each of the Pillars, and quotations are from the country summary reports.¹⁰

Pillar A: Communicating in the Public Sphere

All the teams devoted considerable effort to this area, for understandable reasons. It covers such key issues as freedom and plurality of the press, freedom of information, and the universality of access to media. The area of media freedom and diversity is a good one to illustrate contrasts in what are formally similar situations – they all claim to have free media broadly along the liberal model.

Colombia is going through a process of privatising its media, with public funding being withdrawn. At the same time, the private media are more and more inclined towards “legitimizing the government’s model, the handling of international affairs, and domestic public policy”. From a government point of view, it appears that a compliant, profit-driven, private media is most effective in terms of managing public opinion.

Journalists work under constant threat in Colombia, and not only of violence.

Journalists are often the object of serious pressure, either from the companies they work for, from sectors interested in concealing public interest matters, or from armed actors that control the territory. (Colombia)

The Philippines also has one of the highest murder rates of journalists in the world, seven in 2004 alone, and fifty-six since 1986, “mostly because of their reports exposing corruption and/or malfeasance by members of the government and the military, particularly at the local levels. There have been no successful convictions to date.”. The government stands accused of not doing enough. The ongoing so-called “war on terror” is also leading to censorship attempts by the military.

Media in the Philippines are largely private and unregulated in relation to serving the public interest, possibly in reaction to the repressive tactics implemented during the martial law period. However, indirect state pressures are brought to bear on the media, for instance through government advertising boycotts, the use of libel suits, the bribing of journalists by candidates, and payments to secure television appearances. According to the Philippines *Centre for Investigative Journalism*, “40 percent of reporters were offered bribes to produce glowing reports of political candidates, and 35 percent accepted these offers”. Underlying all this, a “disturbing trend of media commercialization or “commodification” is seen in more and more areas of mass media, with enormous public interest implications”.

Kenya faces a situation of government-linked public broadcasting and the absence of public service obligations on private broadcasters, coupled with the ubiquity of western and South African television. A deteriorating economic and political situation has prevented a much-delayed media law – as well as a new constitution– from being enacted. In the context of the political hopes raised after the ending of Daniel Moi’s rule in 2002, “the absence of a broadcasting regulatory framework represents a lost opportunity to build strong democratic broadcast media”.

Brazil, although experiencing little direct government interference, also suffers from a similar dearth of media regulation in the public interest, resulting in extreme concentration of ownership

¹⁰ All summary and complete National Reports are available at www.crisinfo.org/resources, as well as reports on the experience of each of the research teams.



—about 88 per cent of media and communication companies are in the hands of just nine private corporations, most belonging to families and supporting the interest of local oligarchies.

The situation becomes worse when we realize that many radio and TV channels are owned by politicians, who support media legislation for their own benefit... In a country with immense economical inequality, only powerful economic and political groups can effectively participate in the public sphere. (Brazil)

All four country teams, and that of the European Union, express concern about the growing concentration of ownership of media, a global trend brought about by corporate pressure to prevent or eliminate limits on media ownership, a trend that seriously threatens media diversity. This was found to be one of the few common concerns of all the research teams. Most also show strong evidence of formal or informal links between the political sphere and private media.

Nevertheless, community and locally owned media, mainly radio but including participative video and independent film, manage to exist everywhere, engaging with the interests of the local communities. They do so, however, largely in the absence of specific supports, and often in the face of strong tacit or explicit opposition. Community media are one of the bright spots in otherwise difficult landscapes for media that genuinely pursue the public interest.

Pillar B: Communicating Knowledge

Much of the substance of Pillar 2 is around the idea of copyright and the public domain. Copyright, in particular, is a contested issue at the global level at present, with a growing civil society advocacy constituency claiming that it has in recent decades shifted significantly in favour of the interests of corporate owners of copyright, especially in wealthy countries, to the neglect of both public access to knowledge and the major-

ity of writers, musicians and other creative producers. These struggles are reflected in the national studies, though the difficulty of obtaining useful and definitive information is also evident.

In Kenya, copyright is largely disregarded and “as a result Kenya's growing music and film industry is stifled and yields little to artists”. But, at the same time, it is noted:

Kenya's new national legislation on intellectual property rights was initiated in order to comply with Kenya's WTO obligations, rather than to protect and promote local innovation and knowledge creation. As a result aspects of Kenya's national heritage and culture have become increasingly vulnerable to piracy of indigenous knowledge by private interests. (Kenya)

The motivation in the Philippines to legislate in 1998 for intellectual property was also compliance with the WTO. “Thus existing laws have been aligned accordingly, in many ways strengthening IP rights protection according to global standards largely dictated by the highly developed economies of the North.” As a result,

... the information commons has been met with increasingly greater restrictions, while proprietary rights and regimes are the “default” ... [and] inventors, artists, writers—creators of knowledge which the TRIPS-patterned IP were supposed to protect—often end up more disenfranchised while profit-driven corporations and research institutions gained greater economic benefits. (Philippines)

The situation in Brazil is more complex still, though again their law is based on TRIPS. The report claims that excessive copyright royalties lead to very high prices, which, among a very poor population, inevitably leads to mass counterfeiting.





As this illegal market naturally gravitates towards organized crime, big corporations develop extensive marketing campaigns against “piracy”, emphasizing that relationship. But they fail to mention that one of the causes of this vicious cycle is the excessive prices charged for legitimate products: Sales drop, unit prices are raised to compensate. The companies say they are there to protect the rights of authors, but what they are really protecting is their profit. (Brazil)

Brazilian musicians, as a result, are creating independent labels, generating a “re-formalization” of copyright protection, cutting out the connection with big corporations”.

But Brazil has also recognised and encourages Creative Commons,¹¹ a more flexible and open system of protection, alongside copyright, and also strongly supports free and open source software, both nationally in public administration and internationally, for instance, at the WSIS. Yet intellectual property in general is used as a bargaining chip in WTO negotiations, and Brazil itself also has a major stake as the largest regional media producer.

Though only indirectly relating to communication rights, country reports also express strong concerns about the “piracy” of indigenous knowledge and biodiversity by foreign corporations.

Against a background of poverty, civil war and huge social divisions, it is perhaps understandable that governments and indeed civil society have paid only limited attention to these areas. For many poorer countries, the obligation to implement WTO agreements represents the first real encounter with copyright and intellectual property issues. Brazil, being the largest and most industrialised, is somewhat an exception here, but for others public debate and understanding is limited.

¹¹ www.creativecommons.org

Pillar C: Civil Rights in Communication

Data protection is included here: the right to know the use to which personal information you provide, or is collected about you, is put. The European Union has a particularly strong Directive relating to this, applying in all member states and offering a relatively high degree of protection – though they are constantly under threat and are too often ignored.

Colombia's constitution grants its citizens the right to “know, update, and rectify data that has been gathered about them in databases and files of public and private entities”. However, the trouble is that

... there is no law that regulates the protection, use, and management of information and data in Colombia. Moreover, in recent years, attempts have been made to limit the conditions of the exercise of this right through the modification of this article of the Constitution, within the framework of the initiative to create an anti-terrorist statute. (Colombia)

However, *habeas data* demands before the Constitutional Court have established some limited parameters.

No such constitutional guarantee –enforced or not– exists in Brazil, and there is no specific legislation, though again a *habeas data* may be applied for. Unfortunately, there are no sanctions for misuse, and no means to ensure that information is removed from databases. As a result, “personal information pillage prospers. Stolen data is used in frauds and even sending spam, and there is no specific legislation to handle such cases”.

In Kenya, there is no protection.

The absence of a regulatory framework for the ICT sector contributes to the lack of a mechanism to access and correct data, or to secure privacy rights regarding the use of the information collected by various sectors, including public and private organisations, the government etc. No





mechanisms exist to protect the privacy of citizens, impose or limit government, organisations or private companies sharing this information with other agencies of government or even outside government. (Kenya)

Concerns centre on government, which is in the process of implementing a five-year plan to digitise its data –thus rendering it far more vulnerable to abuse; but also on the private sector:

With increasing commercialisation, marketers are misusing personal data causing a nuisance to the person receiving the unsolicited mail. Spam is clogging email systems, post boxes are full of unsolicited post and sms are now being used to solicit business. (Kenya)

There is some evidence that data-protection rights are largely neglected until the problems generated simply become too large to ignore. Yet, by that point, they are also more difficult to resolve, suggesting a case for the introduction of legislation and protection before matters proceed too far.

Pillar D. Cultural Rights in Communication

The issue of indigenous and minority languages, and the status and rights they are accorded, is among the most basic of cultural rights. While there are few constraints on the (spoken) use of language within language communities, a number of issues arise as to whether such languages are valued equally as part of the national culture. The implications, of course, can extend beyond cultural production and participation in cultural activities, to issues such as the right to participate in the public sphere (Pillar 1) and in the knowledge production of society (Pillar 2).

This is particularly so in the Philippines, which is home to about 120 distinct ethno-linguistic groups. The official languages, English and Tagalog (Filipino), are the main spoken languages of only 27% of the population, yet the ten main

newspapers choose to publish solely in these minority languages, and all laws and regulations are written in technical English:

All television programmes are either English or Filipino, although television is now the most widespread of mediums, surpassing radio over the past few years. Also in the past few years, there has been a precipitous decline in the number of films produced using the vernacular or local languages; the number of locally-produced films dropped from 210 in 1997 to 90 in 2003. (Philippines)

This impacts mainly on the poor population, who are least likely to speak the official languages. Government policies or actions to address the issue are few.

Although Brazil's 235 indigenous peoples speak 180 different languages, most of this population of under three-quarters of a million also speak Portuguese. The issue is therefore primarily cultural.

Yet, no programmes are produced for Indians or by Indians. Moreover, there are no special programmes or content covering information and communications technologies directed towards Indians. (Brazil)

Worse still is the representation of black people in Brazilian television.

Several studies have shown that black people and their descendants comprise a minority in soap operas and fiction production, the main products offered by Brazilian TV, although they represent around 50% of the population. In general, when present, they hold secondary or stigmatized roles, such as housemaids. To give one example: only in 2003, after 38 years of Rede Globo broadcasting (the biggest TV broadcaster in Brazil), was a black woman given a main character role in a soap opera. (Brazil)





Kenya, too, is a country of many languages, and politics since colonial times have tended to divide, sometimes dangerously, along ethnic lines. KBC, the state broadcaster, devotes a channel to seventeen local languages. About 20% of the population speak English, yet

... [m]ainstream media target an educated and English speaking middleclass population, a relatively small group with western-oriented education, mostly alienated from and even disdainful of indigenous cultural expression. The result is predominantly English language mass media and other forms of cultural expression, with western forms of advertising targeting the high-consuming middle class a strong determinant of this bias. (Kenya)

But there is also hope. Although the concept of community radio is undeveloped, local FM radio is experiencing something of a cultural revival.

A few FM stations broadcast in local languages, including content such as folklore, music and humour that is very rooted in cultures of ethnic groups... Today some local language FM stations are popular even among the English-speaking middle class, confirming that the media can potentially play a role in shaping culture...

These FM stations have played a major role in generating a music renaissance in the country. Over the last three years Kenyans have began [sic] to produce music of exceptional quality that is now greatly appreciated throughout the country. This music is mainly hip-hop dance music in “Sheng” (a mixture or recreation of Kiswahili or other local language with English). Music awards and concerts are now serious events. Both the print and broadcasting media now dedicate time and pages to music news, personality profiles, music charts, local videos and interviews with musicians. Successful artists also feature in advertisements. (Kenya) ■





4

Applying the framework



THE APPLICATION OF THE ASSESSMENT FRAMEWORK IN FOUR COUNTRIES AND IN THE EU REGION GENERATED A WEALTH OF EXPERIENCE. THREE OF THE FIVE TEAMS UTILISED A FIRST DRAFT VERSION OF THE FRAMEWORK IN THEIR RESEARCH. BUILDING ON THIS EXPERIENCE, A SECOND VERSION OF THE FRAMEWORK WAS PRODUCED SEVERAL MONTHS INTO THE PROCESS. THOSE STARTING A LITTLE LATER COULD THUS DEPLOY THE REVISED VERSION. (THE SUMMARIES IN ANNEX 3 ALL FOLLOW THE FINAL VERSION.)

THIS SECTION IS BASED MAINLY ON THE EXPERIENCE OF THE TEAMS IN IMPLEMENTING THE ASSESSMENT FRAMEWORK. MANY OF THE EARLY LESSONS LEARNED AND IDEAS EMERGING WERE INCORPORATED INTO THE LATER VERSION OF THE FRAMEWORK, AND THESE ARE NOT DWELT ON HERE.¹²

¹² Individual summary descriptions of the process of implementing the Framework in each of the countries are available at www.crisinfo.org/craft





Key Preliminary Decisions

Any group embarking on implementing an assessment of communication rights must ask themselves some preliminary questions concerning the rationale underlying the decision, the impact they hope to achieve, and the approach to take to implementation.

The Purpose and Approach to Framework Implementation

The goal behind implementing the Assessment Framework, we anticipate, will be to enhance or secure communication rights. It is difficult to see why any group would otherwise take the considerable trouble involved.

Several different strategic approaches can be taken to achieving such a goal, depending on the specific characteristics and conjuncture of the country, and the orientation and capacities of the initiating body. The Assessment Framework is deliberately structured so that it can be

- applied by different types of groups,
- using various methodologies, and
- with different specific objectives.

At least two (overlapping) approaches may be adopted, each emphasising a different strategic purpose.

The “political-influence-approach”

First, the assessment can be utilised to guide the production of a comprehensive, rigorous, systematic and authoritative analysis and documentation of the current state of communication rights.

The emphasis here is on the credibility and authority of the implementing group and research team, and of the overall process. The goal is to produce a document that will help to define the concept of, identify key issues regarding, and influence the political environment for communication rights. It achieves this by being demonstra-

bly objective, dispassionate and non-partisan in approach, by being inclusive in process and engaging with many stakeholders, and by presenting itself in a manner that gains widespread publicity and commentary. Its impact ultimately derives from having presented to many constituencies evidence that is not easy to ignore, and difficult to refute. Its immediate focus is on the media, public opinion and the political system broadly speaking.

We refer to this as the “political-influence approach.”

The “mobilisation approach”

Second, the assessment from the beginning can emanate from within those civil society organisations already active around communication and human rights issues. The assessment process is used as a way to deepen their understanding of the issues and to systematise them in a way that more clearly establishes links between normally disparate aspects of communication. Civil society organisations that usually work in one discrete aspect of communication, such as copyright, freedom of information, language rights of indigenous people or concentration of media ownership, come into contact with each other. This may lead to the recognition of a web of links and affinities between these issues, and to more effective exchange and coalition building.

The identification of priorities, shared by several groups, may then be followed up by the development of specific advocacy tools and the implementation of joint actions. The immediate focus here is civil society itself, with a view to developing a common understanding of the concept, identifying issues of mutual interest, and building tools and structures for advocacy and mobilisation. Its target is ultimately the political system, through widespread mobilisation and activism among the general public, and political pressure often through direct action.



We refer to this as the “mobilisation approach.”

Each is legitimate and can to some extent be pursued in tandem. Each produces an assessment of the current situation in communication rights. But the form of the report may vary, and the nature of the process is somewhat different. The approach adopted will also have resource and timing implications that to some extent cancel each other out. The mobilisation approach requires additional resources and time for the post-research phase, developing the advocacy tools and disseminating and using them. The political-influence approach may require additional time to build the appropriate constituencies and stakeholders, and the research phase is likely to be considerably more expensive.

The communication rights assessments undertaken during the piloting of the Framework were geared mainly towards the mobilisation approach. But several (especially Kenya and the Philippines) also seriously engaged with many stakeholders during the process, including government and private sector, and managed to achieve some of the benefits of both approaches.

One way or the other, it will be important to decide which approach, or which set of elements from each approach, will be undertaken before detailed planning commences. Drafting a concept note, covering the assessment, its purpose, actors and means of influence, and expected outcomes, would be a useful exercise for any group considering embarking on this course of action. This will require a careful examination of the current political and social circumstances in relation to communication rights, the possibilities for influencing change, and the level and nature of civil society organisations. In practice, it is also likely to be influenced by the nature of the group initiating the idea and the resources available.

Such a concept note would comprise the opening part of an Assessment Plan, outlining how the work is to be completed. This Plan would conform to any of the usual structures for a research and action project of this nature.

Assessment Oversight and Advice

Having decided on the approach and goals, it might be useful to consider whether an advisory group or a steering group should be constituted. Its goal would be to formally advise and/or oversee the work, but it may also be a useful device for securing commitment to the process from various institutions.

The Philippines assessment, for instance, set up an Advisory Group at the outset, which included a member of the House of Representatives, a senior from the Department of Science and Technology, the Chair of a Department of Political Science, a member of an advocacy group, and a member of Foundation. Five meetings were held during the course of the work, with additional online interactions. At the early stages, it sensitised the team to the challenges of data-gathering, and provided useful ongoing advice and feedback. Also valuable was the credibility lent to the process, and the doors opened for the assessment.

Whatever its formal role, and irrespective of the approach adopted, it is important to ensure that the Advisory or Steering Group is provided with full documentation, has transparent access to all decision-making processes and administration, and is kept involved and motivated by any means necessary. Formal meetings may be supplemented by informal gatherings and additional tasks for specific members. Such a group may be important to the success of the research process and also the follow-through, and should be treated with the respect and consideration it deserves.

The Implementing Team

The team implementing the assessment is not necessarily the same as that initiating the idea. Such was the case in the CRIS pilot. A selection process for the core research team (referred to as the Team for short) may thus be required.

The Team could comprise a group of research students or academics, a research centre concerned





with these issues, one or more advocacy NGOs, or, for that matter, simply a set of concerned individuals. Implementation does require a minimum set of research skills, including the ability to identify and source published and unpublished material, to analyse it, and to write a report. Additional capabilities, such as interview and workshop facilitation skills, might also be needed. Being experienced and well connected with NGOs, academia, public service, and media and communication in general, will also ease the process and enhance the output.

The composition of the team will also depend on the goal and approach of the work, as discussed above. If the approach is to be weighted towards advocacy and mobilisation, then the Team will benefit from close links to the main national networks and entities, from research and advocacy to community-based organisations, and should have credibility with them. On the other hand, if the approach is geared towards an authoritative academic output that lays a premium on credibility –the political-influence strategy– then experienced and highly respected academics and researchers might take the lead.

In the case of the pilot assessment, a call for proposals was submitted through CRIS and CRIS-related networks internationally, both for the selection of countries to be covered, and the teams to undertake them. This had (given the nature of the CRIS Campaign) an explicit bias towards the advocacy side, and among the criteria was that the Team selected should be involved in communication issues through advocacy, capacity-building, policy work, research or other activities, and would have objectives related to the promotion of communication rights. The Teams selected were led by NGOs involved in networking and advocacy, though most incorporated additional people, including academics and researchers specialising in the area. The EU Team was led by committed academics, but also included NGO members in the work. ■



The Research Phase

The general research methodologies required to complete the assessment are relatively straightforward, and their deployment needs little elaboration. But the problems likely to be encountered in gathering and analysing information specifically on communication rights do require attention and should not be underestimated. While a reasonable amount of data was available, for instance, on quantitative aspects of media concentration, ICT network spread or legal provisions regarding data protection, the extent to which laws are actually implemented, as well as areas such as cultural rights and knowledge-sharing regimes, proved much harder to pin down.

A rough guide to methodological steps and problems likely to be encountered, based mainly on the experience of the pilots, might include the following.

Developing a Common Understanding

Developing a common understanding among the Team of the Assessment Framework is an essential first step. Few experts or activists are familiar with the full range of issues, and at least an overview of them all will lead to better sharing and integration of the research process. But the Framework is generic, in the sense that it is designed with no particular place in mind, and will need to be reconsidered and refined in the light of the local realities. Each of the Pillars, their attributes, and even the individual questions, could be debated among the group as an initial exercise in identifying the most relevant areas, those likely to encounter difficulties, and where further assistance may be needed; and those that might require fine-tuning in the light of specific circumstances faced by the Team.

The Team in Kenya used such an exercise also to generate lists of NGOs and other actors in each area, and to construct a map of communication rights issues, independent of the Framework, reflecting the range of issues and processes under way there.

Assigning Tasks

In the pilot assessments, Team tasks were assigned thematically (by Pillar) rather than, for instance, by methodology or target groups. Each of the Pillars was designed to cover a broadly related body of knowledge, divided into discrete “attributes”. But there is considerable, and unavoidable, overlap between the Pillars. Coordination and ongoing interaction between researchers was thus necessary to reduce duplication and share sources.

It may also be useful to commission tightly focused short pieces (two or three pages) from highly experienced practitioners or experts, perhaps after the Team has completed its initial draft ideas and gaps have been identified. However, appropriate experts should, if possible, be lined up early on to ensure they can set aside the time to undertake the work at short notice.

In-Depth Review of Existing Documentation:

A thorough review must encompass a vast range of published documents, academic, official and others, very often demanding recourse to original sources for more detailed or updated information. Unpublished sources, many Internet sourced, are also very important, as they are often the only information available on current issues.

Significant problems can be experienced in relation to gaining access to information, and in many cases it simply does not exist. For much of the quantitative analysis, newspaper reports are often the primary source, raising issues of reliability.

International sources are also useful –United Nations specialised agencies, international institutions, International NGOs and associations, and numerous others may provide quantitative and qualitative information on dozens, if not hundreds, of countries. Quality varies considerably, and international sources should not be assumed



to be more reliable than national. But they are especially useful for comparative purposes. Annex 3 comprises a compendium of many of these resources by subject area, indicating how they can be accessed.

As well, an in-depth examination of the positions of governments in relation to international Treaties and agreements can yield valuable insights for civil society into the thinking of government in key areas. (Some sources are contained in Annex 3.)

It can reveal contradictions with the formal positions promoted domestically. Virtually every country long ago endorsed the international Bill of Rights (the three main International Rights Treaties). But the numerous UN Summits, including the most recent World Summit on the Information Society, Conventions such as the UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions, and ongoing negotiated positions in arenas such as WIPO and WTO, and regional arenas such as FTAA, UA, EU and ASEAN, offer significant sources for “inside” views.

In tandem with the search for material, the Team might also construct a bibliography, annotated if time and resources allow, for inclusion in the report.

Interviews, Group Discussions and Feedback from Key Stakeholders:

Interviews are a valuable source of information, sometimes the only source of qualitative information about communication rights. Obvious candidates for interview included public officials, academic specialists, legal experts, NGO staff and media practitioners.

Focus Groups, Round Tables or other group interactions can also be an effective way to gain insights into specific stakeholder groups on qualitative issues, especially when properly organised with feedback and review mechanisms for the

ensuing report. Stakeholder consultation may also be requested in the form of written submissions, especially from those judged to have a particular interest in the assessment.

In Kenya, a very well attended and successful Breakfast Consultation was held late in the research, as a means of obtaining initial feedback and indicating new directions and sources for research.

Sorting, Analysing and Benchmarking Information

The Assessment Framework (Annex 1) is intended to assist this part of the research process, from data collection to final documentation.

The “attributes” under each Pillar offer clear and (within each Pillar) relatively non-overlapping components of communication rights. In principle at least, the Team should deal with each attribute separately. The questions associated with each then flesh out the attribute in a concrete and empirical form. These can be rephrased and restructured for use in interviews. They also offer a simple checklist for the analysis. Though many will be deemed irrelevant or perhaps simply unanswerable in the context, all should at least be considered by the Team. (The Colombia report took its structure from the attributes, simply answering each question in turn.)

The limitations of data availability and access inevitably carry over into analysis, and may call for a series of judgments based on the available material. Striking the right balance between a paucity of supporting documentation and asserting qualitative conclusions concerning specific aspects of communication rights is not easy, and it would be wrong to claim it can be achieved in every case. Some questions may be better ignored altogether, in preference to providing unsubstantiated conclusions based on flimsy evidence, though such decisions and concerns should be noted in the assessment.





Where quantitative information is available, time-series can be used to illustrate trends. Yet for much of the analysis, qualitative sources will constitute the main bulk of evidence. Reference points or benchmarks may be useful here, in relation to recent history or from comparisons with neighbouring countries emerging from somewhat similar circumstances. There may also be national targets or benchmarks set by government or other bodies, against which progress can reasonably be measured.

International benchmarks are also available (some in Annex 3) that include legal aspects as well as the more practical aspects of implementation. In terms of international law, national commitments should be clearly noted, including any reservations and (as relevant) the positions adopted by government in relation to endorsing them.

Where governments have endorsed these, they offer general benchmarks. But a key question is pre-

cisely whether and how these have been translated into national law. In some cases, in-depth examination of these might be warranted.

Beyond legal norms, significant work has been done internationally, for instance, in relation to practical standards for implementation of freedom of expression, media regulation, and freedom of information. But care must be taken also not to impose benchmarks that have been derived from circumstances greatly at variance with those of the country under study. In general, the use of external benchmarks should be considered in the light of the general strategy of the assessment, and how their use might add (or detract) from its intended impact and credibility.

Before considering the verification process of the research, aspects of the Assessment Framework in practice are briefly reviewed below. ■



Using, and Troubleshooting, the Framework

As noted, the Communication Rights Assessment Framework evolved during the course of the Pilot, with some significant changes and revisions based on early lessons learned. The initial version was criticised, for instance, for a weak gender perspective, insufficient concern for disability, and conceptual “fuzziness”. The final version was considered a significant improvement, both conceptually and in terms of process of implementation, by all those who used it.

Nevertheless, numerous difficulties and uncertainties were encountered along the way.

- Within the Framework, some attributes and questions are very specific, while others are general. This leads to difficulties in research methodologies, in presentation and in prioritisation.
- In some areas, a purely factual conclusion can be reached; in others, a high degree of judgment must be exercised, sometimes based on limited information. This was not just a matter of quantitative versus qualitative analysis, though that is part of it. Some issues appear to be purely objective in nature, while others demand a value judgment.
- There is some duplication of information implied between pillars, for instance on “universal access to media and communication”. This leads to redundancy in conclusions.
- Some issues (attributes, questions) have barely appeared on the social and political horizon, for instance, aspects of knowledge-sharing regimes in Kenya and Colombia (though they loom large in Brazil and the EU). The development and rights trajectory has yet to encounter them, and concerns are fixed on other areas. Although they may in principle be valid concerns, in practice they do not significantly impinge on national reality, and their inclusion appears to be geared towards a comparative global context.

Some of these problems are unavoidable, and only the application of common sense can be suggested

as a partial remedy. For instance, a degree of duplication will flow from the fact that a single factor may influence several areas of communication rights. A partial resolution is to assign the detail to one area or another, and cross-reference appropriately. Other problems are a matter of resources –qualitative research is particularly resource-intensive. Some questions are simply unanswerable –there is no information available or it does not apply– and this can be stated. There is perhaps no harm in questioning issues that, although currently of little concern, may become more prominent in future (e.g. data privacy in countries with very basic computing and networking capacities).

Some problems stem from an attempt in the Framework to secure a minimal degree of international comparability; others from a desire to sustain a comprehensive vision of communication rights across the spectrum so that the coherence of the issues becomes apparent, if not immediately, then in the future. In both cases the intention was to assist conceptual convergence internationally in relation to communication rights and to enhance the potential for, and value of, collaboration, both inside the context of the CRIS campaign and in international governance arenas.

But there are also areas in which the Framework itself is at fault, and there is no doubt that it can be further improved.

Nevertheless, all five Teams found the process rewarding. Facing these difficulties, they rightly exercised a significant degree of autonomy in their use of the Framework, in the research process, and in the layout and content of the final assessment reports. None felt that the difficulties encountered significantly detracted from the benefits they felt accrued and continue to accrue from the process. And the final reports exhibit a good degree of conceptual coherence and comparability of content.

From this perspective, the Assessment Framework proved itself successful as a tool to enhance an assessment of communication rights. ■

The Verification Process

No matter which strategic approach is adopted, the research, based on a draft assessment report, requires verification. Verification is needed not just from the point of view of ensuring the accuracy and completeness of the work. It is likely to provide a major impetus for, and means to support, the follow-up of the assessment, whether that is in the form of gaining direct political credibility or of grass-roots advocacy and mobilisation.

In all cases, some form of verification workshop is likely to be a useful instrument. Depending on the overall strategy of the assessment, the goals of the Workshop might comprise some combination of the following:

- To assess the accuracy of the research and of the draft report;
- To identify gaps and limitations that require additional work;

- To tease out areas of major disagreement and uncertainty;
- To obtain a consensus on the main conclusions;
- To identify and agree on the key concerns that merit urgent and significant attention;
- To generate interest in the issues;
- To propagate to targeted stakeholders a deeper understanding of the concept and issues;
- To identify and mobilise a process of follow-up.

A single Workshop, no matter how well prepared, is unlikely to achieve all of these (or indeed to seek to), and expectations should be pitched at a realistic level. Normal workshop good practice must, of course, be observed, such as timely advance circulation of the draft, expert facilitation and documentation, appropriate premises and fa-

COLOMBIA VERIFICATION WORKSHOP

The Verification Workshop was held in Bogota in September 2003. Two representatives of each of the regional nodes belonging to the Colombia CRIS Campaign were invited. It lasted two days, and was organised into three blocks.

In the first, presentations were made by experts in relevant fields, such as Free Trade Agreements and ALCA Culture, the Right to Communicate and the Agenda of Grass-Roots Sectors. The panel included people from AMARC (community radio), Free Press Foundation, the Indigenous Groups of Colombian Communication Media Association, and Colnodo which is a non-profit ISP and research organisation. Time was allowed for discussion.

Having set the scene, the three members of the research team presented the research results in the second block, followed by discussion and clarification.

The third block focused on participants' impressions regarding the different aspects of the research, and how it related to their own experience and the right to communicate in their local contexts and actions. The outcome was a general recognition that the greatest obstacles to the exercise of communication rights in Colombia derives from ongoing social and armed conflict. This has created a political and social environment in which the expression of these rights has become virtually impossible. This pointed to a set of advocacy tools that could highlight this issue in practical ways and point to solutions.



cilities, distribution of results for feedback, and so forth.

The assessment strategy will greatly influence the precise organisation of the Workshop, and a few issues should be carefully considered.

The Target Group: The selection of participants for the Workshop will flow from the strategy. They might range from exclusively representatives of key civil society organisations active in the area, to a high-level, multi-stakeholder approach. Regional representation, though more costly, might also be desirable. The depth and breadth of credibility sought for the conclusions, the value attached to achieving a consensus on some issues, the desire to merge directly into a follow-up –all these and many more factors will influence the selection.

The Structure: A three-part structure has been found to be useful. It might include:

1. A few key presentations from experts or practitioners in communication rights not directly involved in the assessment process, to set the scene and perhaps highlight a few points and the underlying reality of communication rights. A short general introduction of the concept might be included, but the focus here is on empirical situations in communication rights.

2. A succinct presentation of the key results of the assessment, followed by discussion. It will be important to keep discussion focused, since experience shows a tendency for participants to concentrate on the implications for their own narrow areas. It might be useful to take it Pillar by Pillar, ensuring that discussion remains focused. The goal here is to raise concerns, reservations and gaps in the research, and ensure they are noted.
3. A session that focuses specifically on the Workshop output. As noted, this could include, for instance, agreement on key areas of concern, an attempt to identify agreed conclusions as well as differences, or approaches to tackling problems and post-assessment action.

Two full days is usually the minimum needed to achieve a successful outcome. Gaining the maximum from a workshop may also involve concerted follow-up, with the outcome circulated for further comment and verification. The final Assessment Report, revised on the basis of the Workshop, should also go to all participants. ■



The Follow-up: From Output to Outcome

The strategic goal of the assessment will, as noted, always go beyond the mere production of a report. There is considerable value to be derived from the process itself, generated through broad participation, consultation and the verification process, but this is consolidated only with further follow-on activity.

Broadly, we suggested two scenarios above, which can also be pursued in combination.

Political Impact – the “political-influence approach”

One conceives the assessment as focused on political impact via the public and media, perhaps focusing on specific issues identified –the political-influence approach. Mainstream media, and perhaps public and private institutions, are encouraged to highlight the issues, and in combination with public opinion, influence mainstream political actors. This puts a premium on a mainstream media strategy to ensure widespread cov-

erage. Components include a publication that is easily accessible, a launch, and a promotion package.

Civil society engagement – the “mobilisation approach”

The second scenario, looking to the impact and influence emerging from within civil society, must link into the various networks, struggles and groups involved in the relevant issues.

To that end, all four national partners have begun the process of developing a set of advocacy tools, localised to focus on identified issues of importance, and tailored to suit the appropriate means for dissemination and mobilisation. These will complement the other two elements of the toolkit, which support awareness-raising about Communication rights, and the application of the Communication rights assessment, research and verification process for groups wishing to undertake similar assessments. ■



Annexes



Annex 1.

An Assessment Framework on Communication Rights

Presented here is the *Framework for the Assessment of Communication Rights*.

The full range of communication rights is divided into Four Pillars, each described in brief below. Overleaf, they are summarised in a single matrix, each defined by a set of attributes. In the pages following, a series of questions are posed in relation to each attribute. The “question” format is offered as an aid to clarifying the kinds of issues covered under each attribute.

Communication Rights Pillars:

Pillar A: Spaces for Democratic Participation: Communicating in the Public Sphere

This Pillar considers whether the media, from conventional newspapers through to television and radio, and on to the Internet, are creating and sustaining spaces for open debate and democratic interaction among all people, and providing the information and tools needed to enable civil society to participate in political process and deliberations.

It includes freedom of expression in general, of press and media freedom; the availability of information of relevance to the public interest from public and corporate sources; promoting plurality and diversity of the media; and enabling all sectors of society to communicate critically and creatively using media technologies.

Pillar B: Communicating Knowledge for Equity and Creativity: Enriching the Public Domain

The Second Pillar considers the role of media and communication in the knowledge generation and sharing process within society. At the core of this is the governance of knowledge production and dissemination in a manner that strikes a just and efficient balance between enabling widespread generation of creative knowledge, and maximising the use of such knowledge for the general social good. An important related principle is that publicly funded knowledge should go into the public do-

main. In addition, it means ensuring that the information needed by specific communities is generated, and that accessing society's knowledge is possible and affordable to all.

Pillar C: Civil Rights in Communication

The Third Pillar focuses on the civil rights needed to protect the integrity and security of interpersonal and group communication within society, and on the uses to which personal information is put. These include the right to privacy of communication, the right to be aware of, give consent to and correct personal information and data, and the right to freedom from surveillance.

Pillar D: Cultural Rights in Communication

The Fourth Pillar focuses on cultural rights relating to communication that contribute to preserving and renewing cultural diversity and heritage, and are a key part of the constitution and evolution of cultural identity, personally and collectively. These include the right to use one's mother tongue, the right to participate freely in the cultural life of one's community, and respect in communication within and across diverse cultures.

Each of these is examined across three axes.

The largest by far is the question of communication rights at home –nationally– since nation states still represent the main juridical, social, economic, cultural and political boundary.

Second, interactions outside national boundaries of various kinds are examined. These include the impact of cross-border media and communication on communication rights nationally; the positions taken by national governments in relation to communication rights externally; the impact of bilateral, regional and global governance institutions, treaties and agreements; and transborder interactions of civil society and others.

Third is the nature and extent of democracy and participation in governance structures, at both na-

tional and international levels, in particular the opportunities for civil society to participate in these structures, including in the design, implementation, evaluation and revision of policies.

These are illustrated as a matrix below, in terms of the attributes of each Pillar and the three axes. The second and third axes share the same questions across the Four Pillars.

FRAMEWORK ON COMMUNICATION RIGHTS: ATTRIBUTES AND AXES.				
	A. COMMUNICATING IN PUBLIC SPHERE	B. COMMUNICATING KNOWLEDGE	C. CIVIL RIGHTS IN COMMUNICATION	D. CULTURAL RIGHTS IN COMMUNICATION
COMMUNICATION RIGHTS AT HOME	<p>A1: Freedom of expression.</p> <p>A2: Freedom of the press and media, including electronic.</p> <p>A3: Access to, and ready availability of, public and government information.</p> <p>A4: Access to corporate information.</p> <p>A5: Diversity and plurality of media and content.</p> <p>A6: Universal access to relevant media.</p>	<p>B1: A balanced knowledge-sharing regime, with practical support measures.</p> <p>B2: Publicly funded knowledge enters the public domain.</p> <p>B3: Affordable and equitable access to all media for knowledge sharing.</p> <p>B4: The availability of relevant knowledge for all communities.</p> <p>B5: Widespread skills and capacities to use media, especially ICTs.</p>	<p>C1: Right to equality before the law, to honour and reputation.</p> <p>C2: Information privacy and data protection.</p> <p>C3: Privacy of communication.</p> <p>C4: Communication surveillance in public and workplace.</p>	<p>D1: Communicating in one's mother tongue.</p> <p>D2: Participation in the cultural life of one's community.</p> <p>D3: Stimulate the sharing of culture and cultural identity.</p>
INTERNATIONAL DIMENSION OF COMMUNICATION RIGHTS	<p>A7: The public sphere ... B6: Knowledge sharing ... C5: Civil rights ... D4: Cultural rights ...</p> <p>... and the role of non-national, transnational and cross-border media and communication.</p>			
	A8:	B7:	C6:	D5:
DEMOCRACY AND PARTICIPATION IN COMMUNICATION GOVERNANCE	<p>Effective participation by civil society in governance nationally.</p>			
	A10:	B9:	C8:	D7:
<p>Effective participation by civil society in governance transnationally.</p>				

Questions on Each Pillar and Attribute:

Issues covered by the attributes of the Pillar can most easily be explained as a series of questions. These contain a normative aspect, and an affirmative answer to each represents a positive contribution to communication rights.

Each of the Pillars, and their attributes, are considered in turn.

Pillar A: Creating Spaces for Democratic Deliberation: The Public Sphere

Communication Rights at Home

Freedom of expression includes the right to hold and express dissenting views and to criticise those in power. It is a fundamental human right, and an absolute requirement for democracy.

A1: Is freedom of expression available to all people, in law and in practice?

- A1.1 Is freedom of expression guaranteed in the constitution and in law, in line with international standards?
- A1.2 Are guarantees of freedom of expression reflected in government policy and enforced effectively by government and judiciary?
- A1.3 Is freedom of expression protected against corporate and business or other private interference?
- A1.4 Is freedom of expression through leaflets, posters and other public means overly restricted?
- A1.5 Are measures taken to ensure freedom from fear and an atmosphere of openness, including, for instance, how these are differently experienced by men and by women?
- A1.6 Does the educational system provide critical media education?

A2: Is there freedom of the press and media, including the electronic media?

- A2.1 Is freedom of the press and media guaranteed constitutionally and in law, in line with international standards, and taking into account the public's right or reply, right to privacy etc.?
- A2.2 Are press and media, in practice, free from government interference, from overt censorship to indirect financial or other pressures?
- A2.3 Are press and media, in practice, free from commercial interference from their owners, shareholders, advertisers or others, direct or indirect?
- A2.4 Are press and media, in practice, free from non-media commercial interference or censorship, such as from common carriers, cable operators, ISPs, search engines and wholesale bandwidth suppliers?
- A2.5 Are there measures, including industry self-regulation, obliging media, publishing and dissemination companies (ISPs, search engines, bandwidth retailers, etc.) to act as "common carriers" in relation to all material that is legal under internationally accepted legal norms, including material critical of government, industry or other parties?
- A2.6 Are human and civil rights of journalists adequately protected to enable them to carry out their work, especially in areas of conflict?
- A2.7 Do journalists have editorial and material freedom to carry out their work, including reasonable job security, trade union membership, protection against gender discrimination, moral rights as authors, absence of employer coercion, etc.?

- A3: Is there access to, and ready availability, of public and government information?
- A3.1 Is there robust freedom of information legislation, with minimum retention for government and public bodies, and maximum access by the public at large?
 - A3.2 Does the freedom of information legislation ensure that information is available in a timely and affordable manner to all?
 - A3.3 Does the public sector and government actively promote openness and transparency, through such means as: structures or offices to compile and release information in appropriate forms; publication of goals and plans for policies and public services; protection for public employees who disclose information in the public interest (“whistleblowers”); broadcasting of deliberations of elected representatives and public bodies; transparency of decision-making on matters of public interest?
- A4: Is there access to corporate information, where relevant to issues of public interest?
- A4.1 Are there effective legal requirements for corporate disclosure legislation/regulation, beyond basic financial information, of all information available to corporations that may have a bearing on public policy and on the public interest?
 - A4.2 Is there access to corporate information in practice, including voluntary action?
- A5: Is there diversity of content in the media, and plurality of media sources?
- A5.1 Are there effective means to regulate in the public interest by preventing concentration of media ownership, including concentration of ownership of a particular medium, cross-ownership between media, and cross-ownership of production, content dissemination, and/or infrastructure?
 - A5.2 Does the legislative framework support in practice the emergence of a plurality of media types at national and, as appropriate, regional and local levels: public service, commercial and community/independent media, including the transparent and equitable allocation of radio spectrum and other public goods?
 - A5.3 Does public service media have adequate resources available to them, especially in relation to news and current affairs?
 - A5.4 Are public service media fully independent of government, and free of arbitrary interference and unnecessarily cumbersome regulation?
 - A5.5 Do community and non-profit media have adequate resources, including public resources such as spectrum, especially for the media of disadvantaged and marginalised communities?
 - A5.6 Are community and non-profit media free from arbitrary interference from government and others?
 - A5.7 Are community and non-profit media transparent, democratic and participative?
 - A5.8 Are there enforceable regulatory obligations on commercial media, including broadcasters, as appropriate, to ensure they fulfil public service requirements?
 - A5.9 Are there mechanisms in place to deal with gross misrepresentation, stereotyping or other distortion within media content of women, ethnic groups, poorer and other marginalised groups?
 - A5.10 Are different social groups, including women, fairly represented among media employees, at every level, and are mechanisms in place to ensure that they are?
 - A5.11 Are there measures to prevent advertising from exerting undue influence on the public sphere, such as ensuring it is

readily identifiable as advertising, limiting the volume of advertising, and regulation of content in the public interest?

A6: Is there universal access to relevant media by all communities?

- A6.1 Are there effective measures to ensure affordability and accessibility of media content (including newspapers, radio and television) relevant to political discussion, especially for women and among poorer and marginalised groups, such as preferential tax regimes, free-to-air broadcasting or transport subsidy?

Media and Communication Interactions Externally

A7: Is the role of non-national media and communication a positive one for the public sphere?

- A7.1 Are there effective measures nationally to ensure that foreign ownership of national media does not negatively affect the extent and quality of coverage of local issues, the quality of general media coverage, and the media environment generally?
- A7.2 Are there effective measures nationally to ensure that cross-border media flows, such as direct broadcast satellite, do not negatively affect the extent and quality of coverage of local issues, the quality of general media coverage, and the media environment generally as it relates to the public sphere?
- A7.3 Does Internet content from outside contribute to the availability of information relating to the public sphere?
- A7.4 Does national civil society participate in transnational media, Internet or otherwise, that contributes to a transnational public sphere?

A8: Do international agreements and developments, and government positions in relation to them, support and enhance the role of media and communication in the public sphere?

- A8.1 Do international agreements and multilateral institutions inside and outside the UN, in practice, support media and communication in relation to the public sphere, for instance, through the protection of, and support for free, diverse and open media nationally, and the right to discriminate in favour of such local media, and to regulate content originating outside in the interests of supporting the public sphere?
- A8.2 Does the government advocate and support measures in relevant agreements and institutions that would support the role of media and communication in the public sphere?
- A8.3 Is there consistency between government positions in relation to media and communication internationally and at home?
- A8.4 Does the government maintain an independent position in relation to the actions of powerful governments, preventing undue external influence in relation to these issues?

Democracy and Participation in Communication Governance

A9: Nationally, is there effective civil society participation in media and communication governance, as it relates to the public sphere?

- A9.1 Are there adequate public consultations on, and opportunities to participation in, government media and communication national strategy and policy development that affect the public sphere?



- A9.2 Are there effective ongoing means for public concerns and complaints to be heard and acted upon with regard to media policy and practice, including remedial actions, in this area?
- A9.3 Are there adequate mechanisms for independent direct public participation in ongoing policy review and implementation, in a decentralised manner as appropriate, in this area?
- A9.4 Has civil society and other actors developed and deployed governance mechanisms and instruments that support the role of media in the public sphere, recognised or not by government?
- A9.5 Are there specific measures to ensure that women can actively participate in structures of consultation, representation and participation, and that gender-related issues are addressed?
- A10: Internationally, is there effective civil society participation in media and communication governance as it relates to the public sphere?
 - A10.1 Are there mechanisms to ensure openness and transparency of government in international negotiations and institutions relating to media and the public sphere?
 - A10.2 Are there adequate opportunities for civil society, including women, to participate in international governance structures and environments in relation to the role of media and communication in the public sphere, in both a national and international context?
 - A10.3 Are civil society entities, such as NGOs and research centres, aware of transnational governance issues, nationally, regionally or internationally, and do they to participate to any significant extent at these levels?

Pillar B: Knowledge Creation and Sharing for Equity and Creativeness: Enriching the public domain

Communication Rights at Home

- B1: Do the governance and practice of knowledge generation, ownership and sharing strike an equitable and efficient balance between supporting widespread creativity and enabling widespread use of knowledge?
 - B1.1 Is there a national strategic and policy orientation to knowledge creation, dissemination and use (especially copyright, and including published and broadcast educational materials and software) with the explicit goal of enriching the public domain, satisfying the various needs for knowledge, and encouraging creativity from all sectors of society?
 - B1.2 Are there public policies and actions to encourage and enable widespread generation and communication of knowledge, which might include: support for “fair use” of copyrighted material; constraints on digital rights management; recognition and protection for the “moral rights” of authors; or efforts to tailor IPRs to national conditions?
 - B1.3 Do government and public bodies actively interpret and implement national and international laws and agreements in copyright and relevant patents in favour of balanced knowledge sharing, such as: promoting new business and legal models reinforcing knowledge sharing; incentives for necessary research and knowledge creation; facilitating dissemination via the media; support for open source and free software, and for “development and community-friendly” approaches to knowledge sharing, or efforts to protect folklore from exploitation?



B2: Do knowledge and works supported by public funds automatically enter the public domain?

- B2.1 Is there a public policy, supported by practical measures, to ensure that all knowledge generated through public funds immediately becomes part of the public domain?
- B2.2 Is knowledge and information held by public bodies made available into the public domain?
- B2.3 Do public service media, and other content funded by public funds, place their archives in the public domain?

B3: Do all groups in society, including women and marginalised groups, have affordable and equitable access to the various means of sharing knowledge?

- B3.1 Do different social groups (including gender, ethnic, linguistic, income) and geographical areas have access to knowledge in an equitable manner, carried by media, mass media and ICTs, in terms of availability, affordability and access?
- B3.2 Is there affordable access to scientific and educational knowledge, disseminated by publishers by conventional and digital means?
- B3.3 Are there effective measures to ensure affordability and accessibility of knowledge sharing media, especially among poorer and marginalised groups, such as preferential tax regimes, free-to-air broadcasting, must-carry obligations on cable operators etc.?
- B3.4 Does the political and regulatory framework actively favour the extension of universal service/access as the priority for the media sector, including in ICTs, broadcast services and others?
- B3.5 Are policy measures pursued in ICTs conventional and innovative, to ensure

universal services and access to knowledge, for instance by providing subsidies?

- B3.6 Is there active support for local industry development across ICT sectors, such as specific incentives, transition periods to build up local companies, and so forth?

B4: Do all social groups have reasonable opportunities to produce and disseminate knowledge?

- B4.1 Are there measures to ensure that all social groups, including women, have at least a minimum of society's knowledge available to them in appropriate form, via media and communication, including illiterate people?
- B4.2 Are there measures to support knowledge production among all social groups, for dissemination via media?

B5: Are there widespread skills and capacities to enable people and communities to utilise media and communication to achieve individual and collective goals?

- B5.1 Are opportunities for ICT skills and capacity development available to all communities, such as training, exchange programmes, or formal curriculum modules in public establishments such as schools, libraries or community centres?
- B5.2 Are opportunities for media and communication training available to all communities, including formal, informal and community-based?
- B5.3 Is media education a standard part of the educational curriculum?

Media and Communication Interactions Externally

B6: Is the role of non-national media and communication a positive one for knowledge sharing?



- B6.1 Are there effective measures nationally to ensure that foreign ownership of national publishing companies, telecommunication and media, do not impact negatively on national knowledge generation and dissemination?
 - B6.2 Are there effective measures to counteract any negative effect of cross-border media-related knowledge flows, such as foreign-owned scientific and educational publishers, including in digital form?
 - B6.3: Is the Internet, or other media, used extensively as a means to support the availability and sharing of knowledge, and are there measures to support this from government or others?
- B7: Do international agreements, and government positions in relation to them, support and enhance the role of media and communication in knowledge generation and sharing?
- B7.1 Do international agreements, Treaties and conventions, and multilateral institutions inside and outside the UN, in practice, support media and communication in knowledge generation and sharing, for instance through ensuring a fair copyright regime, and the protection of “fair use” in the move to electronic publishing?
 - B7.2 Does the government advocate and support measures in these agreements and institutions in support of a balanced knowledge generation and dissemination regime?
 - B7.3 Is there consistency between government positions in these matters abroad and at home?
 - B7.4 Does the government maintain an independent position in relation to the actions of powerful governments, preventing undue external influence in relation to these issues?

Democracy and Participation in Communication Governance

- B8: Nationally, is there effective civil society participation in media and communication governance, as it relates to knowledge generation and sharing?
- B8.1 Are there adequate public consultations on, and opportunities for participation in, government knowledge production and dissemination of national strategy and policy development, including in copyright and knowledge ownership, telecommunication infrastructure (fixed, wireless) and services (telephony, mobile, data and Internet), and content?
 - B8.2 Are there effective ongoing means for public concerns and complaints to be heard and acted upon with regard to policy and practice, including remedial actions?
 - B8.3 Are there adequate mechanisms for direct public participation in ongoing policy review and implementation, in a decentralised manner as appropriate?
 - B8.4 Has civil society, and/or other actors, developed and deployed governance mechanisms and instruments in relation to knowledge generation and sharing, recognised or not by government?
 - B8.5 Are there specific measures to ensure that women can actively participate in structures of consultation, representation and participation, and that gender-related issues are addressed?
- B9: Internationally, is there effective civil society participation in the governance of knowledge generation, ownership and sharing?
- B9.1 Are there mechanisms to ensure openness and transparency of government in international negotiations and institutions relating to knowledge generation, ownership and sharing?



- B9.2 Are there adequate opportunities for civil society, including women, to participate in international governance structures and environments in relation to knowledge generation, ownership and sharing, in both a national and international context?
- B9.3 Are civil society entities, such as NGOs and research centres, aware of transnational governance issues, nationally, regionally or internationally, and do they to participate to any significant extent at these levels?

Pillar C: Civil Communication Rights

C1: Is there a right to equality before the law, and the protection of one's honour and reputation?

- C.1.1 Is there explicit legal protection against incitement to discrimination, by media or other communication, in relation to all being equal before the law?
- C.1.2 Is a right of reply available to the public, to protect against defamation, incitement to discrimination, and other related issues, in line with international standards?

C2: Is there a right to information privacy and data protection?

- C2.1 Is there legislation to ensure that personal data are held for the minimum necessary period and used only for purposes authorised by the person to whom the data refers?
- C2.2. Are such laws actively enforced, and can the public exercise this right in an affordable, transparent and proactive manner, including securing remedial action?
- C2.3 Is there a strong culture of self-regulation and codes of practice in privacy and data protection, among civil society, government and private sector actors?

C3: Is there a right to privacy of communication?

- C3.1 Are there laws and regulations to ensure a right to privacy of communication and the absence of surveillance, of Internet, telephony, postal or other means, with exceptions only in clearly defined and extreme circumstances, and covering access in private, public and commercial environments?
- C3.2 Are such laws enforced in a transparent, non-partisan and proactive manner, including against government violations, with the possibility of redress where rights have been violated?
- C3.3 Are there effective measures to control spam (unsolicited commercial e-mail), in order to prevent it hindering the general capacity for Internet interaction?

C4: In public and in workplaces, is there protection against excessive surveillance using communication technologies?

- C4.1 Are there measures to protect against excessive video surveillance and the "chilling effect" it may have on freedom of association and movement?

Media and Communication Interactions Externally

C5: Do non-national media and communication promote civil rights?

- C5.1 Is there protection against external surveillance and interference in national Internet use?

C6: Do international agreements, and government positions in relation to them, support and enhance the role of media and communication in civil rights?

- C6.1 Do international agreements (regional, global) and multilateral institutions inside and outside the UN, in practice, support civil rights in media and communication?



- C6.2 Does the government advocate and support measures in these agreements and institutions in support of civil rights in communication?
- C6.3 Is there consistency between government positions in these matters abroad and at home?
- C6.4 Does the government maintain an independent position in relation to the actions of powerful governments, preventing undue external influence in relation to these issues?

Democracy and Participation in Communication Governance

- C7: Nationally, is there effective civil society participation in media and communication governance as it relates to civil rights and cultural production?
 - C7.1 Are there adequate public consultations on, and opportunities to participate in, government approach to civil rights in relation to communication?
 - C7.2 Are there effective ongoing means for public concerns and complaints to be heard and acted upon with regard to policy and practice, including remedial actions?
 - C7.3 Are there adequate mechanisms for independent direct public participation in ongoing policy review and implementation, in a decentralised manner as appropriate?
 - C7.4 Have civil society and other actors developed and deployed governance mechanisms and instruments in relation to securing civil rights, recognised or not by government?
 - C7.5 Are there specific measures to ensure that women can actively participate in structures of consultation, representation and

participation, and that gender-related issues are addressed?

C8: Internationally, is there effective civil society participation in the governance of civil rights?

- C8.1 Are there mechanisms to ensure openness and transparency of government in international negotiations and institutions relating to civil rights relevant to communication?
- C8.2 Does the government actively facilitate and support the participation of civil society in international governance arenas, including national to local level consultation to ensure that civil society views are taken into account when developing positions?
- C8.3 Are there adequate opportunities for civil society, including women, to participate in international governance structures and environments in relation to communication-related civil rights, in both a national and international context?

Pillar D: Cultural Rights relating to Communication

- D1: Are the rights of all linguistic communities in relation to the use of their language recognised and enforced?
 - D1.1 Are all linguistic groups treated equally in terms of the right to use one's language in public and private communication?
 - D1.2 Are there adequate measures to enable the use of minority and endangered languages, including sign language and subtitling, in media and communication production and dissemination?
 - D1.3 Are there adequate measures to ensure that all linguistic communities have access to a minimum of society's knowledge available to them in appropriate language and form?





- D1.4 Are there effective measures to ensure that minority linguistic groups can intervene and participate in media fora relevant to general political and social discussion?
- D1.5 In relation to ICTs, are there technologies available to ensure that minority linguistic groups can use software and hardware?
- D1.6 Is education available to all in junior, secondary and third level in native languages?

D2: Is everyone enabled to freely participate in cultural life and practices of their communities, as they relate to media and communication?

- D2.1 Is there specific recognition in public policy that cultural production is distinct from market-driven production of commodities?
- D2.2 Are all cultural traditions adequately recognised in public funding and regulation of cultural practice in relation to the media?
- D2.3 Are adequate measures in place to ensure that all cultures have affordable access to media-related cultural products and activities of their cultures, such as film and television, including their production as well as consumption?
- D2.4 Are media-related cultural products available in the public domain for public use?
- D2.5 Are media-related cultural products given sufficient long-term protection, in terms for instance of suitable archiving?

D3: Is the media and communications environment supportive of individual, community and societal identity formation and evolution, enhancing diversity and mutual respect?

- D3.1 Are positive measures taken to develop cultural diversity, for instance through recognition of the value of diverse national and immigrant cultures, of exchanges with external cultures etc.?

- D3.2 Is there an awareness of, and action to prevent, an excessive influence of advertising and commercial pressures within the media in relation to culture and identity issues?

Media and Communication Interactions Externally

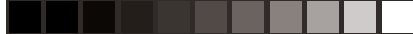
D4: Does the influence of non-national media and communication promote cultural rights?

- D4.1 Are there effective measures nationally to ensure the foreign ownership and participation in cultural production and dissemination do not have a negative impact on national and local cultural rights?
- D4.2 Are there effective measures to counteract any negative effects of cross-border media-related cultural flows, such as foreign-owned/produced television, film, music and other cultural endeavours, especially where they are commercially motivated, while at the same time enhancing authentic cultural diversity and sharing?

D5: Do international agreements and government positions in relation to them support and enhance the role of media and communication in cultural rights?

- D5.1 Do international agreements (regional, global) and multilateral institutions inside and outside the UN, in practice, strengthen cultural rights in media and communication, for instance through recognition of the special nature of cultural products and support for cultural diversity?
- D5.2 Do the government and public bodies advocate and support measures in these agreements and institutions in support of cultural rights in communication?





- D5.3 Is there consistency between government positions in these matters abroad and at home?
- D5.4 Does the government maintain an independent position in relation to the actions of powerful governments, preventing undue external influence in relation to these issues?

Democracy and Participation in Communication Governance

D6: Nationally, is there effective civil society participation in media and communication governance as it relates to cultural production?

- D6.1 Are there adequate public consultations on, and opportunities for participation in, government cultural and linguistic strategy and policy development?
- D6.2 Are there effective ongoing means for public concerns and complaints to be heard and acted upon with regard to policy and practice, including remedial actions?
- D6.3 Are there adequate mechanisms for independent direct public participation in ongoing policy review and implementation, in a decentralised manner as appropriate?
- D6.4 Have civil society and other actors developed and deployed governance mechanisms and instruments in relation to cultural rights, recognised or not by government?

- D6.5 Are civil society entities, such as NGOs and research centres, aware of transnational governance issues, nationally, regionally or internationally, and do they to participate to any significant extent at these levels?
- D6.6 Are there specific measures to ensure that women can actively participate in structures of consultation, representation and participation, and that gender-related issues are addressed?

D7: Internationally, is there effective civil society participation in the governance of cultural rights?

- D7.1 Are there mechanisms to ensure openness and transparency of government in international negotiations and institutions relating to cultural rights relevant to communication?
- D7.2 Are there adequate opportunities for civil society, including women, to participate in international governance structures and environments in relation to communication-related cultural rights, in both a national and international context?
- D7.3 Are civil society entities, such as NGOs and research centres, aware of transnational governance issues, nationally, regionally or internationally, and do they to participate to any significant extent at these levels?



Annex 2.

Communication Rights in the International Bill of Rights

The following contains references to the communication rights in the three constituent elements of the International Bill of Rights: the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. Many more international agreements and legal precedents refer to numerous aspects of communication, but there are not included here.¹³

Universal Declaration of Human Rights,
Adopted 10th December 1948.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

¹³ For a review of some of them, see: Hamelink, Cees (2003) "Human Rights for the Information Society" in Bruce Girard, Seán Ó Siochru eds. *Communicating in the Information Society*. UNRISD, Geneva. www.unrisd.org

Article 19.

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.

Article 20.

(1) Everyone has the right to freedom of peaceful assembly and association.

Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.



(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

International Covenant on Economic, Social and Cultural Rights

Adopted on 16 December 1966, entry into force, on 3 January 1976

Article 13.

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

Article 15.

1. The States Parties to the present Covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

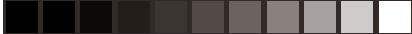
International Covenant on Civil and Political Rights

Adopted on 16 December 1966, entry into force 23 March 1976

Article 1.

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.





Article 10.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

Article 17.

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18.

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall

include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Article 19.

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20.

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.



Article 21.

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22.

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

Article 25.

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

Article 27.

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.



Annex 3.

International Resources for Framework Implementation

The following comprise international resources that offer, for the most part, individual reports and information from specific countries. The amount of information readily available gets noticeably less for each successive Pillar.

General Sources

UNDP: www.undp.org (English, French, Spanish)

The Human Development Report contains a table on which countries have ratified major international human rights instruments, and is searchable by country and downloadable. <http://hdr.undp.org/reports/global/2004/indicator/index.html>

A. COMMUNICATING IN THE PUBLIC SPHERE

Amnesty International: www.amnesty.org (English, French, Spanish)

The AI Annual Reports (latest covering 2004) can be searched by country and may refer to attacks on journalists, freedom of expression, etc..

<http://web.amnesty.org/report2004/index-eng>

Their Library section can be searched back to 1996 by Country and Theme (Freedom of Expression) <http://web.amnesty.org/library/engindex>

Human Rights Watch: <http://www.hrw.org> (English, French, Spanish, Russian, and others)

Human Rights Watch website is searchable by country (all countries) and by subject (Press Freedom, Free Expression on the Internet) with numerous individual stories.

<http://www.hrw.org/countries.html>

A1: Freedom of expression.

Article 19: www.article19.org (Mainly English, some French, Spanish, Portuguese)

Their website contains a wealth of information, although there is no systematic or comparable country analysis. It has a search facility that can be used for the following:

Freedom of Expression Manual (1993), and updates on national and international case law relating to freedom of information.

Bulletin on Latin America, part of the Regional Programmes, available in Spanish and Portuguese.

Freedom of Association and Assembly: unions, NGOs and political freedom in sub-Saharan Africa (March 2001)

Privacy International: www.privacyinternational.org (English only)

To download September 2003 report on Censorship and control of the Internet (Privacy International and GreenNet), see www.privacyinternational.org/survey/censorship. It contains national sections on Brazil, Kenya and the Philippines.

A2: Freedom of the press and media, including electronic.

Reporters sans frontières: <http://www.rsf.org> (French, English, Spanish)
Their *Annual Report (2004 and back)* can be searched by country from the map on the Home Page http://www.rsf.org/rubrique.php3?id_rubrique=416
They have an Annual World Press Freedom Index, now in its third year.
http://www.rsf.org/article.php3?id_article=11715
They also have a new *Internet under Surveillance (2004)* report, with similar coverage.
http://www.rsf.org/rubrique.php3?id_rubrique=433

Global Press Freedom World Tour 2003 summarises the main attacks on journalists worldwide.
http://www.rsf.org/article.php3?id_article=10184

Freedom House: <http://www.freedomhouse.org> (English only)
The organisation's annual press freedom survey, covering most countries, can be downloaded: *Press Freedom in the World 2003* and *2004* updates.
<http://www.freedomhouse.org/research/presssurvey.htm>

A3: Access to, and ready availability of, public and government information.

Privacy International: www.privacyinternational.org (English only)
Their report, *Freedom of Information and Access to Government Record Laws Around The World* (May 2004), covers more than 50 countries.
<http://www.freedominfo.org/survey.htm>

FoI in the European Union and Elsewhere:
<http://www.rz.uni-frankfurt.de/~sobotta/FOI.htm> (English only)
This website provides some information of varied quality on freedom of information laws in many countries, as well as the EU and UN. Last updated about 2000.

Freedom of Information Laws: home.online.no/~wkeim/foil.htm (English and German)
This focuses on the legal situation in EU countries, regionally and in a selection of other countries. Updated recently.

Article 19: www.article19.org
Freedom of Information: a Comparative Legal Survey (2003), by Toby Mendel, Law Programme Director with ARTICLE 19, Global Campaign for Free Expression. Article 19 and UNESCO. Covers South Asia only.

A4: Access to Corporate Information.

Data and Information

Global Reporting Initiative (GRI): www.globalreporting.org
The GRI is a framework for voluntary reporting guidelines of corporations associated with the UN's Global Compact. Organisational return can be searched by country at:
<http://www.globalreporting.org/guidelines/companies.asp>

Corporate Watch: www.corporatewatch.org
This website is searchable by theme, including countries.

International Norms:

UN Commission on Human Rights' Sub-Commission on the Promotion and Protection of Human Rights: <http://www1.umn.edu/humanrts/links/norms-Aug2003.html> (English, Spanish)

August 2003 Resolution on *Human Rights Norms for Transnational Corporations*, outlining a set of norms in conformance with international law. This would oblige transnational corporations to "adopt, disseminate and implement internal rules of operation in compliance with the Norms". It goes on to say: "States should establish and reinforce the necessary legal and administrative framework for ensuring that the Norms and other relevant national and international laws are implemented by transnational corporations and other business enterprises." Also www.unhcr.ch/Huridocda/Huridoca.nsf/0/64155e7e8141b38cc1256d63002c55e8?Opendocument

OECD: www.oecd.org (English, French, some Spanish)

OECD has a section but no national information on *Guidelines for Multinational Enterprises*, accepted by 33 countries. Includes the statement: "Enterprises are encouraged to communicate additional information that could include: a) Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes." www.oecd.org/topic/0,2686,en_2649_34889_1_1_1_1_37461,00.html

A5: Diversity and plurality of media and content.

World Association of Newspapers (WAN): www.wan-press.org (English)

WAN produces an annual report, *World Press Trends* (latest 2005), covering the following, and more, for 204 countries: (<http://www.wan-press.org/article567.html>) number of titles; circulation, total annual sales and newspaper reach; readership per age group; advertising revenues and trends; macroeconomic data and demographic information, including a breakdown by age, gender and social class; taxes, subsidies, discounts and ownership; newspaper Internet editions and online readership; format and cover price of daily newspapers; distribution, newsprint and salary costs; media consumption; number of journalists and total number of employees in the newspaper industry. Only samples (out of date) are on line. See <http://www.wan-press.org/article568.html>

International Federation of Journalists (IFJ): www.ifj.org (English, Spanish, French)

This is searchable by region country for numerous articles, but has no comparable data.

A6: Universal access to relevant media.

International Telecommunication Union: www.itu.org (Spanish, French, English)

The ITU provides data online at <http://www.itu.int/ITU-D/ict/statistics/> which is up to date. It is compiled from figures provided by national administrations, and covers telephone, Internet and mobile subscribers.

They have developed a Digital Access Index <http://www.itu.int/ITU-D/ict/dai/index.html>. This aggregates data for each country from various sources (subscriber lines, mobiles and Internet users per 100 inhabitants; Internet tariff as percentage of gross national income, adult literacy, school enrolment, international Internet bandwidth and broadband subscribers per 100 inhabitants) into five indicators: Infrastructure, Affordability, Knowledge, Quality, Usage. An overall DAI is derived. There are Internet case studies available at <http://www.itu.int/osg/spu/casestudies/index.html#cni>

OECD: www.oecd.org (English, French)

OECD holds ICT data on its 30 wealthy members:

http://www.oecd.org/topicstatsportal/0,2647,en_2825_495656_1_1_1_1_1,00.html

UNESCO: www.unesco.org (English, French, Spanish, Portuguese, Russian, Arabic)

UNESCO hosts an Information Society Observatory, which can be searched by country and contains some statistical reports. <http://portal.unesco.org/ci/>

[ev.php?URL_ID=7277&URL_DO=DO_TOPIC&URL_SECTION=201&reload=1048272936](http://portal.unesco.org/ci/ev.php?URL_ID=7277&URL_DO=DO_TOPIC&URL_SECTION=201&reload=1048272936)

B. COMMUNICATING KNOWLEDGE

B1: A balanced knowledge-sharing regime, with practical support measures.

World Intellectual Property Organisation (WIPO): www.wipo.org

They has a comprehensive and searchable database called “CLEA”, but in English only. It covers intellectual property legislation from a wide range of countries and regions (EU, NAFTA etc.) as well as treaties on intellectual property. <http://www.wipo.int/clea/en/>

WIPO undertook a Survey of 90 countries of *National Protection of Audiovisual Performances* (2003) See http://www.wipo.int/copyright/en/activities/audio_visual.htm. The detailed country information is at http://www.wipo.int/documents/en/meetings/2003/avp_im/index.htm

General Resources

Media Trade Monitor: Focuses on international policy and developments in the trade of media and audio-visual. Although there is little comparable country data, the sections the UNESCO Convention on Cultural Diversity and on development in WIPO (World Intellectual Property Organisation) offer lots of information and links. www.mediatrademonitor.org

IP Justice: www.ipjustice.org/ (English)

Contains a large number of reports on intellectual property issues, and is searchable by region.

A programme on the Free Trade Agreement of the Americas (FTAA):

<http://www.ipjustice.org/FTAA/resources.shtml#treaties>

Consumer Project on Technology. It contains volumes of current material on copyright and access to knowledge. <http://www.cptech.org/>

IPRs Online: <http://www.iprsonline.org/index.htm>

Creative Commons: www.creativecommons.org

Integrating Intellectual Property Rights and Development Policy, UK Commission on IPRs, Final Report: Summer 2002
http://www.iprcommission.org/graphic/documents/final_report.htm

IPRs: Implications for Development, ICTSD and UNCTAD: August 2003 for another good summary. http://www.ictsd.org/pubs/ictsd_series/iprs/PP.htm

TRIPS Agreement www.wto.int

The *Trade Related Intellectual Property Rights (TRIPS)*, including copyright, is covered here from the WTO perspective. http://www.wto.org/english/tratop_e/trips_e/trips_e.htm

B2: Publicly funded knowledge enters the public domain.

B3: Affordable and equitable access to all media for knowledge sharing.

ITU www.itu.int (English, French, Spanish)
Internet and other telecoms-related cost data.

B4: The availability of relevant knowledge for all communities.

UNDP: www.undp.org (English, French, Spanish)
The Human Development Report contains a wide range of data on education and literacy, including gender breakdowns, on income distribution, inequality and literacy, and is searchable by country and downloadable. <http://hdr.undp.org/reports/global/2003/indicator/index.html>

B5: Widespread skills and capacities to use media, especially ICTs.

APC toolkit: www.apc.org (English, Spanish)
While the *Association for Progressive Communication* contains little data on the capacity to use ICTs –there is a general difficulty around gathering and comparing such data– it does offer a number of examples from around the world of the strategic use of ICTs, as well as training material in relation to the use of ICTs.
http://www.apc.org/english/capacity/strategy/examples_90s.shtml

C. CIVIL RIGHTS IN COMMUNICATION

C1: Right to equality before the law, to honour and reputation.

C2: Information privacy and data protection.

C3: Privacy of communication.

Privacy International & EPIC: www.privacyinternational.org (English)

National survey of national privacy laws <http://www.privacyinternational.org/survey/phr2003/>

International Standards in Privacy

European Union Data Protection Directive: (English, French, Spanish, Portuguese etc.) http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31995L0046&model=guichett

European Union "SPAM" Directive: (English, French, Spanish, Portuguese etc.)
http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=32002L0058&model=guichett

Greenet's code of practice <http://www.gn.apc.org/codeofpractice.html>

C4: Communication surveillance in public and workplace

General Resources:

Privacy International: <http://www.privacyinternational.org/issues/cctv/index.html>

D. CULTURAL RIGHTS IN COMMUNICATION

D1: Communicating in one's mother tongue.

D2: Participation in the cultural life of one's community.

D3: Stimulate the sharing of culture and cultural identity.

General Resources:

Media Trade Monitor: www.mediatrademonitor.org/ (English)

International Network for Cultural Diversity: www.incd.net (French, English, Spanish)

Coalition for Cultural Diversity: www.cdc-ccd.org (French, English, Spanish)

International Standards

UNESCO: www.unesco.org (English, French, Spanish, Russian, etc.)

Universal Declaration on Cultural Diversity (2001)

http://portal.unesco.org/culture/en/ev.php-URL_ID=2450&URL_DO=DO_TOPIC&URL_SECTION=201.html

