

Some Essentials of the Right to Communicate

Author: L. S. Harms

Year: 2002

Source: Invited paper prepared for www.righttocommunicate.org

Abstract:

This article attempts to distill, from a wide range of activities and from diverse materials, the essentials of the right to communicate. The intent is to provide the newcomer a simple description of the right and to alert the researcher and educator to some of the tasks ahead.

Introduction

In late 1969, the EBU Review published an article by Jean d'Arcy entitled *Communication satellites and the right of man to communicate*. He wrote:

The time will come when the Universal Declaration of Human Rights will have to encompass a more extensive right than man's right to information, first laid down 21 years ago in Article 19. This is the right of man to communicate (d'Arcy, 1969). A decade later, d'Arcy added that "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). Communication satellites along with several other global developments prompted an on-going review of communication in society. Of importance:

- Distance spanning transport, telecom and mobile networks
- Interactive and participatory rather than transmission view of communication
- Partial and uneven, Internet accelerated, migration toward a global society

These and related global developments underlay the right to communicate. Early in the work on the right to communicate, two astute observations were made: the right is not a 'single unified legal doctrine' but rather is a descriptive term for a number of 'specific communication rights' (Le Duc, 1977) and, given its global reach, it is necessary to 'build in flexibility from the start' (Rao, 1977). At the outset, it is essential to distinguish between description and definition. The intent here is only to describe the right to communicate clearly enough to facilitate various lines of *thought and action*, including programs of research, education and policy. A formal definition of the right at this time has proven an illusive quest, as Unesco has demonstrated. Later on, it may become possible to craft a useful definition. To date, the right to communicate has been long on opinion and short on data. In this brief article, a number of areas in which descriptive research is needed will be noted. Recall that good science begins with description and proceeds on to explanation and other more rigorous processes such as prediction. In addition, education toward a *common understanding* of the right and communication policy to implement it will be needed and on a global scale. A multi-layer description of the right to communicate is set forth below: fundamental, inclusive and comprehensive. It has been distilled from a wide range of activities and across decades. Even so, it has no formal standing.

Fundamental

In this multi-layer framework, the first layer begins to differentiate the right to communicate from the other human rights included in the UDHR.

The right to communicate is a fundamental and inclusive human right; it is both a *natural* right of the human person and a *prerequisite* for the exercise of other human rights. This fundamental right enriches the common heritage of humankind.

Today, it is understood that this right is a *prerequisite* for the exercise of other, some would say, *all*, human rights. For that reason alone, it is essential. A framework for this right must accommodate two perspectives: the fundamental and the inclusive. From the fundamental perspective, agreement that everyone has the right to communicate appears to be commonplace. From the inclusive perspective, however, the exercise of any specific communication right may, at times, generate intense debate, even conflict. Such debate often focuses on communication freedoms and on communication responsibilities. At the core of this fundamental right is the basic and universal claim that everyone has the right to communicate. Attached closely to this core and inseparable from it emerge three classes of specific communication rights: association rights, information rights, and global rights.

Inclusive

This description of the right to communicate also uses Article 19 of the UDHR as a touchstone, as d'Arcy and others have done. In its entirety, Article 19 reads:

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. The bias of Article 19 is toward a transmission view of communication processes, a view consistent with the dominant one-way print and broadcast technologies of the 1940s. In addition to Article 19, several other articles in the UDHR contain elements essential to an interactive and participatory right to communicate. Note also the phrases: *without interference*; and, *regardless of frontiers*. The specific rights and freedoms listed in Article 19 are included here under the fundamental right to communicate. However, the right to freedom of opinion and expression is consolidated under the *ancient* term, that is, the right to speech, as is consistent with the preamble of the UDHR. The terms used for the right to *seek, receive and impart* information have been re-cast and re-ordered to be compatible with an interactive view of the communication and information processes: *to inform, to be informed and to inquire*. And, assembly, participation, privacy, and culture have been imported from other UDHR articles and recast. A new right to *choose* has been added. Specific communication rights that are not included in Article 19 are drawn from other articles of the UDHR for this global and interactive description of the right.

- Assemble. Article 20: Everyone has the right to peaceful assembly ...
- Participate. Article 21: Everyone has the right to take part in ... and, Article 27: Everyone has the right to freely participate ...
- Privacy. Article 12: No one shall be subjected to arbitrary interference with his privacy ...
- Culture. Article 27: Everyone has the right to ... the cultural life of the community ...
- Choice. Not specifically included in the UDHR but implicit in the UDHR as a whole...

In sum, nine specific communication rights are included in this description: four from Article 19, four from other Articles, and one from the UDHR as a whole. The second layer of an inclusive framework for the right to communicate is displayed below:

<i>Association rights</i>	<i>Information rights</i>	<i>Global rights</i>
Assemble	Inform	Privacy
Speech	Informed	Choice
Participate	Inquire	Culture

The three dots signify that from time to time any two specific communication rights may be consolidated or that new specific rights may be added as circumstances warrant. In that sense, the right to communicate is an open and flexible concept; this framework anticipates that the right will evolve and expand in the decades - perhaps, *centuries* - ahead (Harms, 2001). The specific communication rights are *interdependent*. Consider inquire and privacy, or participate, inform and culture. Perhaps, each specific right will be found to have a *working range*. Further dialog, study and *data* are needed on these and other interdependencies -- a research task for the immediate future.

Comprehensive

In a framework intended to parallel that of the familiar Article 19, the third layer of the right to communicate may be described as follows:

Everyone has the right to communicate; this fundamental human right includes but is not limited to the following specific communication rights:

- a right to assemble, a right to speech, a right to participate and related *association* rights;
- a right to inform, a right to be informed, a right to inquire and related *information* rights;
- a right to privacy, a right to choose, a right to culture and related *global* rights

As a common standard for achievement, the full recognition of the right to communicate requires that the resources be available to meet the basic communication needs of everyone.

An earlier version of this description of the right appeared in *Many voices, one world*, the MacBride Report, published in 1980 by Unesco (Richstad, 2001). Of that earlier version, the MacBride Report stated: "this approach promises to advance the democratization of communication on all levels - international, national, local, individual" (MacBride, 1980, p.173). A few years later, MacBride wrote:

While the Universal Declaration of Human Rights was only declaratory, it is now regarded by most international lawyers as having acquired the force of Customary International Law. Thus, the right to communicate was recognized implicitly in the first code of human rights ever adopted (MacBride, 1983). From MacBride's view, the right to communicate received implicit recognition in the UDHR. A task ahead is to move this implicit right toward an explicit status.

Biases

In the UDHR, one finds many instances of the phrase: rights and freedoms. Elsewhere, one finds the phrase: rights and responsibilities (duties, obligations). These contrasting phrases, often labeled as Western and Eastern biases, can lead to spirited debate over where specific rights are vested. From a transmission view of communication they may appear as distinct, even, contentious. From an interactive view, however, the distinctions blur, as displayed below:

Specific communication rights

| freedoms<----->and<----->responsibilities

While the words *rights* and *freedoms* appear many times in the UDHR, it would have been helpful if the concept of *responsibility* had been more clearly described. It is addressed only indirectly in Article 29, Paragraph 2.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the rights and freedoms of others ... in a democratic society. The bias of the UDHR is toward freedom, including freedom without interference in the exercise of all the rights in the UDHR. In a society that is becoming more global, an appropriate balance between freedom and responsibilities appears necessary. How to strike such a global balance is a question of some urgency (Cocca,1983), one in need of careful research. A human right is a claim on resources. The right to communicate is no exception. Communication resources are discussed below.

Resources

Communication freedoms imply only that whatever the resources a person or group can mobilize to communicate, they may do so freely without interference. In contrast, a right is a claim on others to yield, provide, or allocate resources (Pool, 1977; Richstad, 2001). No one is likely ever to have all the resources needed to become fully effective in the exercise of all communication rights. A specific communication right is a claim on specific communication resources. Such a claim becomes especially important when there is a scarcity of needed resources and becomes less important when resources become abundant. Here communication policy has a major role to play. The multi-layer description above of the right is intended also to provide a framework for assessing the resources currently available and those needed in the future to achieve the right of everyone to communicate. At present, certain communication resources are assessed routinely:

- Libraries (Unesco)
- Postal service (UPU)
- Basic telephone service (ITU)

In the case of telephone service, the Maitland Commission concluded that it can not be *right* that the service is both unevenly distributed and inadequate. For example, about one in every six persons has easy access to telephone and the other services modern telecommunication networks can provide. Communication resources often vary significantly from most other resources. Some of these communication resources can be 'liberated' by cessation of censorship, opportunities to assemble, and so on. Information resources often increase in both quantity and quality through heavy use; they are not depleted. Silicon based technologies can be very low cost. As the report of the Maitland Commission details, in the making of

communication resources widely available, many actors have roles to play: individuals, their communities, governments, multinational corporations, international nongovernmental organizations, United Nations Agencies and many others (Maitland, 1984). Access to the Internet depends on the availability of basic communication and information services. Given the scarcity of such services today in many communities in the world, global Internet access will not be achieved universally in the near future (ITU, 1996-99). Serious inequities in teledensity persist. In the years ahead, it should become possible to assemble data on the current and needed communication resources, and to estimate the costs and benefits associated with developing and deploying - or not - the needed resources globally, for everyone (ITU and Unesco, 1995; Birdsall and Rasmussen, 2000).

Research

The multi-layer - *open* and *flexible* - right to communicate framework presented above is intended to facilitate research on a wide range of problems. A few salient problem areas are listed below: *Interdependence*. Specific communication rights, each of the nine of them, appear to have a working range which, when exceeded, generate problems. *Responsibility*. When local communication activities can have global consequences, how communicate responsibly? *Resources*. How develop and deploy - globally - the resources required for interactive and participatory communication?

Culture. How take into account both the diversity of cultures and a decent respect for the communication rights of others? *Education*. How organize and implement multilevel education programs? *Policy*. How develop and implement a fair world communication rights policy? These are but a few of the obvious problem areas on which research is needed at this time. This list could be much longer.

Summary

In summary, the right to communicate:

- Includes a number of specific communication rights within a multi-layer framework.
- Organizes the comprehensive right to communicate, the specific communication rights, and the associated freedoms and responsibilities within a multi-layer framework.
- Links freedoms and responsibilities within the context of a global society that varies in terms of culture, access to technologies, levels of development, among other factors.
- Recognizes that the exercise of specific communication rights, including access to the Internet, requires appropriate communication resources and policies.
- Serves as a prerequisite for the exercise of the other human rights.

This article represents an attempt by one student of the right to distill, from a wide range of activities and from diverse materials, the essentials of the right to communicate. Obviously, every few years, an update of this article will be needed, especially to take into account the

impact of the Internet and the Web and other developments such as CETI -- communicating with intelligent life from outer space.

In his final major paper on the right so closely associated with his name, Jean d'Arcy wrote:

"Today, a new step forward seems possible: recognition of man's right to communicate, deriving from our latest victories over time and space and from our increased awareness of the phenomenon of communication" (d'Arcy, 1978).

Such a recognition will require that the essential communication resources be available to meet the basic communication needs of everyone.

**Note that certain sections of this article have been published previously including in the invited papers for the MacBride Commission and, most recently, in Intermedia.*

References

d'Arcy, Jean, 1969 *Communication satellites and the right of man to communicate*. EBU Review, 118:14-18.

d'Arcy, Jean, 1978 *Right to Communicate*. Paper #36. Prepared for the MacBride Commission.

Birdsall, William F. and Merilee Rasmussen, 2000 *Citizens at the Crossroads: The Right to Communicate*. Government Information in Canada, No 20
www.usask.ca/library/gic/20/birdsall2.html

Cocca, Aldo Armando, 1983 El Derecho a Comunicarse/Right to Communicate. Cordoba: Estudios Internacionales Avanzados

Harms, L. S., 2001 *The right to communicate: toward explicit status*, Intermedia, v29, #5/6:32-35

ITU, 1996-99 *Inter-Agency Project on Universal Access to Basic Communication and Information Services* www.itu.int/acc/rtc/index.htm

ITU and Unesco, 1995 *The right to communicate: at what price?* Paris: Unesco, CII.95/WS/2
www.unesco.org

Le Duc, Don R., 1977 *The right to receive communications: A thought worth entertaining* In L. S. Harms and Jim Richstad (eds), Evolving Perspectives on the Right to Communicate, Honolulu: Distributed by the University Press of Hawaii.

MacBride, Sean and others, 1980 Many Voices, One World. Paris: Unesco

MacBride, Sean, 1983 *Foreword* in Desmond Fisher and L. S. Harms (eds), Right to Communicate: A new Human Right Dublin: Boole Press.

Maitland, Donald and others, 1984 The Missing Link. Geneva: International Telecommunication Union (ITU)

Pool, Ithiel de Sola, 1977 *Scarcity, abundance and the right to communicate*. In Evolving perspectives (see above)

Rao, Y.V. L., 1977 *Information imbalance in Asia* In Right to Communicate: Collected Papers, Honolulu: Distributed by University Press of Hawaii.

Richstad, Jim, 2001 *The Right to Communicate in the Internet Age*. Book chapter. *In press*

Universal Declaration of Human Rights. 1948 Geneva: UN High Commissioner for Human Rights www.unhcr.org/udhr/index.htm