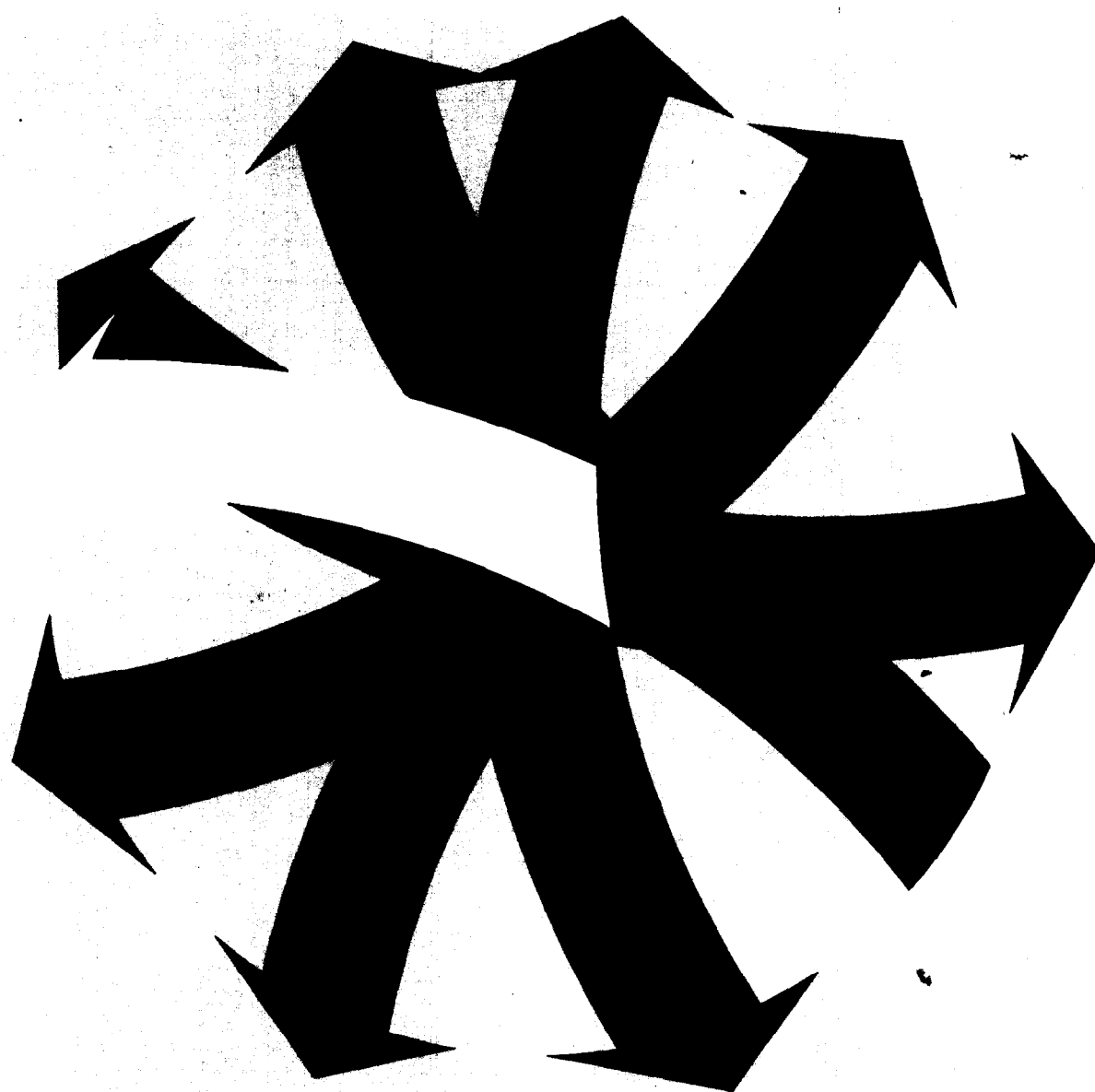


No. 94

The Right to Communicate: A Status Report

Reports and Papers on Mass Communication



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The Right to Communicate: A Status Report

by Desmond Fisher



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Preface

Following upon a resolution of the twentieth session of the General Conference of Unesco (1978) which had invited the Director-General to study in depth the concept of the right to communicate, the Organization initiated a number of activities including meetings of experts, studies on specific aspects of the concept, consultations with specialized groups, etc. All of these programmes were aimed at achieving a clearer understanding of a concept that was relatively new.

Later, in 1980, the International Commission for the Study of Communication Problems had recommended that '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 inform, 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'.

The present volume is an attempt at a synthesis of the views, opinions and hopes expressed at several meetings convened by Unesco and other organizations as well as in the growing literature on the concept. Its purpose is to make the concept better known so as to encourage wider discussion which may eventually lead to a clearer and more comprehensive definition and to a delineation of the components that make up the right to communicate.

The author, Mr Desmond Fisher, who is Director of Broadcasting Development in RTE, the Irish national broadcasting organization, has been keenly interested in the study of concept of the right to communicate and has participated in discussions on the subject.

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The author is responsible for the choice and presentation of the facts contained in this publication and for the opinions expressed therein which do not necessarily represent the views of Unesco.

Introduction

The right to communicate is an idea and an ideal.

It is an idea inasmuch as it exists as yet only in the conceptual stage. No definition of it has been drawn up. Its constituent elements and how they relate to one another have still to be agreed upon. No concrete expression of it exists in national and international agreements and conventions.

It is an ideal in that its supporters are working to have it drawn up, defined and promulgated as a basic human right.

This is not to say that the right of human beings to communicate between themselves is rejected as a philosophical and ethical concept or that the exercise of it is generally denied in practice. The absence to date of a statement of the right is due at least partly to its being taken as self-evident. Like the right to exist, it is considered so fundamental that it need not be stated.

There are other reasons for not formally acknowledging it. It embraces a whole gamut of related freedoms and entitlements in the area of communication and information. Some of these freedoms are already accepted and, in many cases, ratified in national constitutions and laws and in international conventions; others are still being actively discussed in international forums. The relationship between them is difficult to articulate and, in fact, no attempt has been made to bring all these different aspects of communication rights together to determine if they can be considered as discrete aspects of a unitary principle.

Secondly, the exercise of the various communication freedoms and entitlements which might seem to belong to an overall right to communicate is subject to different qualifications and restrictions. Stating these freedoms and their limitations might, therefore, seem more to restrict the right to communicate itself than to sustain it.

Thirdly, there is opposition to acknowledging the right to communicate from opposing ideological standpoints,

both from those who see the concept as another aspect of a concerted attack on the 'western' communications media and from those who regard it as a way of undermining the emphasis in socialist states on the rights of the collective.

Despite this, the concept of the right is a live issue. Communication experts throughout the world are examining the concept of the right and trying to reach agreement, if possible, on a definition of it which might be offered for inclusion in future national and international instruments dealing with communication freedoms.

The International Institute of Communications, formerly the International Broadcast Institute, has encouraged its members to study the concept and much of the pioneering work has been done by the East-West Communication Institute of the University of Hawaii at Manoa, Honolulu.

In 1974, the Unesco General Conference authorized the Director-General 'to analyse the right to communicate' and Unesco is inspiring and helping to finance current studies on the subject.

This paper is part of these studies. Its aim is to trace the history of discussion of the concept of the right to communicate since it was first publicly enunciated in 1969 and to describe the present state of thinking on the matter and, as far as possible, to suggest the next stages in the work of defining the right.

On some aspects of the right to communicate, the writer has his own strong convictions which, in some cases, run counter to the views of some of his colleagues in the discussions. But he has honestly tried, as befits a citizen of a country which was neutral in the Second World War and is not a member of any military or ideological block, to bring a fair and balanced attitude to the task of distilling and articulating the varying viewpoints in the studies to date of the right to communicate.

Note

Most of the references in the following pages are to Unesco documents and essays and articles in two books which contain the main published material on the right to communicate. They are:

Harms, L.S., Jim Richstad and Kathleen A. Kie (eds.).

Right to Communicate: Collected Papers; Honolulu: Social Sciences and Linguistics Institute, University of Hawaii at Manoa, 1977, and

Harms, L.S. and Jim Richstad (eds.). *Evolving Perspectives on the Right to Communicate*, Honolulu: East-West Center, East-West Communication Institute, 1977.

These publications are referred to throughout the text as *Collected Papers* and *Evolving Perspectives* respectively.

Desmond Fisher is Director of Broadcasting Development in RTE, the Irish national broadcasting organization, and editor of *Irish Broadcasting Review*.

1. The information society

At periods since the world began, changes have taken place which have profoundly affected the human condition. Many of the evolutionary turning-points which have brought us to our present physiological, psychological and sociological stages of development are lost in pre-history. In the historic period, however, we can distinguish humankind's transition from a nomadic existence based on hunting to settled community life based on agriculture and from there to the industrial society of the past two centuries.

Today we are emerging from the industrial society to what the sociologists call the information society. The emphasis is shifting from manufacturing and service industries to information processing, that is, the preparation, transfer and storage of information. Already, more than half the working population of the United States is estimated to be engaged in this form of work. The communications business is the biggest growth area of our times.

Each fundamental change in life style has been accompanied by changes in political and social structures. Individual nuclear families joined together to form the nomadic tribe. Permanent settlements led to the city-state, the feudal fiefdoms, the principalities and dukedoms, the kingdoms and empires, the nation states and the power blocs. Industrialization led to the growth of cities and trade unions, to universal education and to the democratic systems of today. Science and technology developed in line with the changes in social and political structures; in many cases, indeed, they initiated the changes.

The communication explosion of modern times is likely to result in changes of comparable dimensions. The technological basis for such changes is already developed. From being so scarce that possession of them meant the concentration of power and influence in a few hands, communication resources may soon be so plentiful as to eliminate their scarcity or exclusivity value. Indeed, the marriage of computers and communication systems, which is the foundation of the information society, makes possible such a vast increase in the capacity to generate, process, distribute and store information that there are fears of information overload or pollution.

The capacity to deal with the huge quantities of information now available will inevitably produce a qualitative change in the communication process itself and consequently in its sociological and political effects. It will break down existing patterns of information transfer. There will no longer be the need for—nor, indeed, the possibility of exercising—the full regulatory controls which were necessary at a time when communication resources were scarce. Mass media communications will decline in importance, as is already becoming apparent. In many countries, newspapers are finding it difficult to survive. Broadcasting

monopolies, at least in western countries, are almost everywhere disappearing. Miniaturized communication equipment already makes it possible for smaller groups to communicate among themselves. At the present rate of progress, interpersonal communications between any two individuals will be technically possible in the foreseeable future.

Pending the dawn of this new age of communication possibilities, there is a wider acceptance of the fact that existing disparities in the possession of communication technology are not only unjust but dangerous. The gap between the communication-rich and the communication-poor nations is reaching critical proportions. It is wrecking efforts to improve the flow of information throughout the world, since demands for free flow are seen as ploys to increase the dominant economic position of the nations rich in communication resources while efforts to balance the flow in the interests of nations with insufficient resources are seen as control and censorship. The moves to produce a better global communication system, however that may be differently defined in various parts of the world, have therefore become bogged down in political and ideological confrontation. In particular, the emergence of the Third World as a major element in the geopolitical scene has highlighted the imbalance in communication resources and has given rise to demands for more just distribution of the technological capacity to participate in the growing transfer of information.

All these considerations have led to the emergence of new and urgent concerns about communication freedoms. In the absence of the freedom and ability to communicate, how can humankind, at the level of the individual and of communities, develop its full potential? If there is a vast and growing disparity between the communication resources in different parts of the world, how can peace, prosperity and progress be achieved? If nations, having achieved political freedom, are still economically inferior because of their lack of communication resources, can it be said that the colonial era is really ended?

Existing definitions and formulations of communication freedoms do not promise any solutions to these questions. Freedom of information and expression, freedom of the press, the free and balanced flow of information—all these concepts, which have been widely debated and, in some cases, incorporated into international agreement, have proved insufficient.

There are a number of reasons for this:

1. There is now a deeper understanding of the fundamental importance of the act of communication itself both for the development of the individual and for the well-being of the society of which he or she is part.

2. There is a new acceptance that existing communication philosophy, policies and practices derive from a few particular world-views and cultural backgrounds and that other views and cultures must be taken into account in determining general principles.
3. The growing realization of the interdependence not only of individuals but also of communities, regions and nations creates pressure for a wider understanding of world-wide communication needs and of the rights and duties to which these needs give rise.
4. As a result of modern technological developments, the previous scarcity of communication possibilities is changing to a relative, though unevenly distributed, abundance.
5. The recognition of the need for a new economic and a new information order in the world emphasizes the related need to expand existing formulations of communication rights to meet changing demands and circumstances.

The need to re-examine and expand on previous statements about communication rights and freedoms to take account of these new realities and insights has now become urgent. As communication technology develops, as the need for controls and the practicality of exercising them diminish, as the information needs of individuals and of societies become more pressing, as new opportunities arise for creating a more just balance in international communications resources, vast changes in society are foreshadowed. At least the potential will be there for such changes. Whether, or rather in what way, they come about will depend on the degree to which the new resources are made available and on the existence of the social and political freedoms for their use.

These, in turn, depend on the identification, formulation and implementation of basic communication freedoms. Existing statements of such freedoms have proved either inadequate or unacceptable. The freedom of opinion and expression contained in the Universal Declaration of Human Rights is not basic enough. It emphasizes the content of communication rather than the process of communicating and it suggests a one-way flow from the transmitter to the receiver of the communication. Later formulations such as the 'free flow of information' and the 'free and balanced flow of information' became entangled in ideological considerations and efforts to define them were frustrated.

The concept of the right to communicate offers the possibility of ending the impasse. This comparatively new concept was first enunciated in 1969. It expresses a more fundamental philosophical principle and has a wider application than previous formulations of communications rights. It springs from the very nature of the human person as a communicating being and from the human need for communication, at the level of the individual and of society. It is universal. It emphasizes the process of communicating rather than the content of the message. It implies participation. It suggests an interactive transfer of information. And underlying the concept is an ethical or humanitarian suggestion of a responsibility to ensure a fairer global distribution of the resources necessary to make communication possible.

The concept of the 'right to communicate' is, therefore, regarded by its protagonists as more fundamental, more comprehensive, more expressive and more likely to be effective than previous formulations.

2. Needs and rights

'Freedom', according to Albert Camus, 'is nothing else but a chance to be better'.¹ The elegant simplicity of the statement conceals ideas which are central to human advancement and are the wellspring of all efforts to determine basic human rights and fundamental freedoms.

Life is growth. The story of man, from protoplasmic dust or slime to whatever Teilhardian 'noosphere' the race will eventually reach, is one of development, of improvement, of actualizing a potential. That growth, as Darwin proved, depends on choice, the opportunity to select between alternatives or, as Camus put it, 'the chance to be better'. Freedom is, then, the availability of the opportunity to make those selections which work towards the advancement of life and the growth of the human race. As Archibald McLeish, the American poet-lawyer-statesman and one of the founding fathers of Unesco, said: 'Freedom is the right to choose; the right to create for yourself the alternatives of choice'.

Human rights or freedoms, therefore, are determined by human needs. They express what human beings require in order to develop their full potential, to actualize their full humanity.

Some rights are fundamental. The right to life, to food and shelter are obvious ones. Without life there is no existence; without food and shelter, the continuation of that existence cannot be guaranteed.

Other rights are not so clear-cut. Freedom of the person, freedom of religion, non-discrimination on account of race or origin are all included in the United Nations Charter's list of human rights and fundamental freedoms. They are there not because they are essential to existence but because they are necessary for the growth and development of human beings to their full potential. They provide what Camus called 'the chance to be better'.

The fact that human history is full of instances where basic human rights are denied does not rule out the need to state them: it makes it ever more necessary to do so. In the field of communication that need is particularly relevant today.

Life depends on communication. The chemical reactions of the elements of the simplest cell, the nuclear activity of the atom, the transmission of the life force—all require some form of communication. The higher a living thing's place on the evolutionary ladder, the greater are its needs and its powers of communication. Humans at the top of the evolutionary process—at least until more intelligent beings are proved to exist—have the greatest needs and the highest powers.

Communication is necessary to the individual. A person knows himself or herself only in relation to other persons: as a child of someone else, a parent, a friend, an enemy.

Lock a baby away from all human contact for years and the adult, on release, will not know who he or she is. Only by inter-relationship—communication—with others does a person know his or her own personality.

Communication is also the basis of society. Individuals need it in order to live together. Without it there can be no co-operation, no peace. Community depends on communications.

The history of civilization is the history of communication. The inventions of speech, of writing, of printing, of the telegraph, radio and television, up to the so-called communication explosion of the present day are all milestones in the story of human life, marking new stages in its development, new opportunities for choice.

For communication—the transfer of information—can, like all human gifts, be used for good ends or abused for evil ones. In all societies at all times, information is power. Omniscience is the equivalent of omnipotence; the All-Knowing is also the All-Powerful. The strong are those who possess the information and control the mechanisms by which information is transferred, the channels of communication.

The gradual evolution of democracy parallels, and arguably is in essence the result of, the demystification of the communication process and the consequent wider dissemination of the power which possession of information and of the means of communicating it confers. The more people who have information and the more information that people have, the better the society and the stronger its democratic basis.

In this context, future historians—not contemporary writers—will be able to assess how profound was the influence of three modern developments in the life of humankind.

The three developments are:

1. The explosive growth of science and technology, particularly in the field of computers and communications;
2. The decentralization of the communication process and the consequent redistribution of the power which possession of information and of the means of imparting and receiving it confers;
3. The growing realization of interdependence of the individuals, cultures, nations and peoples on what Adlai Stevenson called 'spaceship Earth' and the consequent need to create a new international order in key areas of human relationships.

In their most recent form, these developments date from and stem from the Second World War. That war saw unprecedented advances in communication and its use for the

1. Albert Camus in *Resistance, Rebellion and Death*.

most savage attacks on human life and liberty that the world had until then ever known. It resulted in the realignment of power throughout the world and, at the same time, in the realization that the human race, in possessing the capacity to wipe itself out, is more interdependent than ever before. And it initiated new and urgent attempts to define and promulgate rights and freedoms for humankind and better systems in the economic and social orders to ensure human survival and development.

In the immediate aftermath of the Second World War, however, these developments were not as clearly delineated as they are today. It was a different perspective which the

United Nations and its agencies brought to its study of human rights when it began work in 1946. The emphasis was on freedom of information rather than freedom of communication.

With hindsight, it may be argued that this was too narrow a focus. By concentrating on the quantitative measurement of communication resources rather than on the content of the message and on the communication process itself, the debate on freedom of information was bound to become politicized and stalemated. Perhaps the right-to-communicate approach offers a new starting point and a new opportunity.

3. Freedom of information

From its beginnings, the United Nations recognized the importance of information freedoms in the task of building a better world society. Article 55 of its Charter requires Member States to promote 'respect for an observance of human rights and fundamental freedoms' and in Resolution 59(1) the General Assembly of 1946 declared that 'freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated'.

The Universal Declaration of Human Rights, approved by the General Assembly on 10 December 1948, took a similar line. Its Article 19, which is the main one in the communications field, stated that:

'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.'

United Nations activity in the field of communications gradually became concentrated in Unesco, which from the early 1960s began to emphasize the close link between development and communication.

The compilation of data on regional communication resources had shown the wide disparity between different countries. Unesco therefore defined 'minimum standards' for development programmes. These proposed that any country should aim at providing at least ten copies of a daily newspaper, five radio sets and two cinema seats for every 100 of its population.¹

This approach was based on the idea prevailing at the time that providing communication systems was sufficient in itself. It was later realized that there were more important considerations involved—the content of the communications systems and the right of people to use them. The new emphasis was evident in the 1969/70 report of Unesco's Director-General in which he noted that:

'Information in its twofold aspect—documentation, which is memory, and communication, which is interchange of all forms of expression and stimulation—is essential to the spiritual life and the mission of Unesco. Unesco's real progress should be measured above all by what it can do to make available to each and all a fund of knowledge and a system of communication that are both universal.'²

About this time, much research work was being conducted on the imbalance in international information transfer. This showed that the bulk of the world's information came from four western news agencies, that it related mainly to western countries, that it reflected western views, that when it dealt with other parts of the world it treated them through

western eyes. The research also showed similar dependence on a few sources for television programme material, films and books. The consequent emphasis on alien values was seen to represent a grave threat to the cultural identity of developing countries.

Criticisms of this state of affairs were summed up by one commentator as follows:

'The media are too powerful—they penetrate too widely and effectively. They represent an alien viewpoint, which they impress on nations trying to build an independent, modern identity. And they lack the attributes—of accuracy and objectivity—on which they have based their claims to pre-eminence.'³

As a result of mounting criticism of what was seen as one-way traffic in information, the earlier concept of 'freedom of information' came to be regarded as inadequate. A new concept of the 'free flow of information' was put forward, but this in turn was soon discarded in favour of the broader 'free and balanced flow of information' and this concept was incorporated into the programme of the eighteenth session of the Unesco General Conference (1974).⁴

Two years later, in Nairobi, the General Conference approved a five-year plan which stated that 'the highest priority should be given to measures aiming at reducing the communication gap existing between the developed and the developing countries and at achieving a freer and more balanced international flow of information'. This conference also instructed the Director-General to review all the problems of communication in modern society in the light of technological advances and of the full complexity and breadth of recent developments in international relations. It was as a result of this remit that the International Commission for the Study of Communication Problems was set up under Mr Sean MacBride, former Irish Foreign Minister and winner of both the Nobel and Lenin Peace Prizes.

Again two years later, in Paris, the twentieth session of the Unesco General Conference, expressed concern at the

1. Cf. 'Communication' What do we know?', Research Paper No. 9 of International Commission for the Study of Communication Problems, Unesco. p. 4.
2. Introduction to the Draft Programme and Budget for 1969/70, Unesco General Conference, fifteenth session, Paris 1968.
3. Rosemary Righter, 'Whose News?', Politics, the Press and the Third World', London, 1978. p. 23.
4. A very full treatment of the development of the Unesco approach to communication freedoms is contained in 'From freedom of information to the free and balanced flow of information', Research Paper No. 9 of the International Commission for the Study of Communication Problems, Unesco.

present unsatisfactory communication system in the world and called for a new, more just and more balanced world information and communication order.

As the debate progressed, it became clear that the communication model which had been generally accepted was too narrow. Improving the flow of information did not mean only increasing the amount of items transferred, the amount of communication technology available or the content of the communication. Access and participation were seen to be key factors in the proper use of communications for promoting culture, development and human advancement. The two-way, inter-active aspect of communication began to be recognized and the need for communication freedoms—the right to communicate—gradually emerged.

The results of this new understanding were reflected in the Final Report of the MacBride Commission which is the most substantial examination of the whole field of communications problems to have been published in recent years. It summed up the development of thinking about communication rights and expressed the belief that the concept of the right to communicate may provide a way forward as follows:

‘Communication, nowadays, is a matter of human rights. But it is increasingly interpreted as the right to communicate, going beyond the right to receive communication or to be given information. Communication is thus seen as a two-way process, in which the partners—individual and collective—carry on a democratic and balanced

dialogue. The idea of dialogue, in contrast to monologue, is at the heart of much contemporary thinking, which is leading towards a process of developing a new area of social rights.

The right to communicate is an extension of the continuing advance towards liberty and democracy. In every age, man has fought to be free from dominating powers—political, economic, social, religious—that tried to curtail communication. Only through fervent, unflagging efforts did peoples achieve freedom of speech, of the press, of information. Today, the struggle still goes on for extending human rights in order to make the world of communications more democratic than it is today. But the present stage of the struggle introduces new aspects of the basic concept of freedom. The demands for a two-way flow, for free exchange, for access and participation, make a qualitatively new addition to the freedom successively attained in the past. Indeed, the idea of the right to communicate lifts the whole debate on ‘free flow’ to a higher level, and gives promise to bringing it out of the deadlock to which it was confined for the last thirty years.’⁵

How the thinking about this new concept of the right to communicate has developed is described in the succeeding chapters.

5. *Many Voices, One World*. Report of the International Commission for the Study of Communication Problems, Unesco, Paris, 1980. pp. 172-3.

4. Communication v. information

While the United Nations and Unesco discussions on freedoms in the field of information were going on, Jean D'Arcy wrote a seminal article putting forward the concept of the right to communicate. His opening sentence was admirably direct and uncompromising. 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 twenty-one years ago in Article 19. This is the right of man to communicate.'¹

D'Arcy's theme was that the means of communication have always determined political and social structures and that the person or group controlling communications effectively controls society. As long as the means of communication were limited, the ordinary person accepted that it should be controlled by religious leaders, politicians or private individuals. The tools of communication determined communication structures and possession of these tools conferred power.

Today, however, the tools of communication are changing and they are in far more general use. The more they are available, the more must the communication structures and all the structures of society change in order to cope with them. D'Arcy wrote:

'For today whole peoples have tasted the fruits of knowledge, and if they are more difficult to govern this is perhaps because the instruments of communication, information and participation offered them no longer correspond to the present-day world and its technological progress.'²

And D'Arcy concluded:

'If we bear in mind that social structures are created for man and that any attempt to maintain them once they have outlived their usefulness is bound to end in violence, we shall see that the direct broadcast satellite and its associated technology will lead to infinitely greater communication possibilities, to a real right to communicate in all forms. On this road, time itself is of secondary importance; what counts is the will to get there in the end.'³

Over ten years have passed since the right to communicate was thus publicly introduced. In some ways, D'Arcy's concept was an idea which had met its time. The United Nations and Unesco discussions on the freedom of information and the free flow of information—which contained many of the same elements as the right to communicate—were soon to become stalemated in conflicting ideological and political manoeuvring. A way to break the logjam would prove useful.

The right to communicate seemed to some to provide such a formulation. For others, however, it was a complication. Though he was at the time a member of the United Nations staff—Director of the Radio and Visual Services in the Organization's Office of Public Information in New York—D'Arcy's initiative received only a lukewarm welcome. Many of those already engaged in the United Nations studies and debates on freedom of information and the free flow of information feared that the introduction of the new concept would confuse and delay their deliberations.

Their concerns were fairly stated by Lakshmana Rao who asked in 1975 why there was a need to go beyond the concepts of freedom of information and free flow of information, where so much preparatory work had been done, to a new concept, closely related and containing much the same constituents, inevitably causing further controversy and delaying effective action.

'What', asked Rao, 'has happened since 1948 that has brought about almost a total turnaround in our approach to the grandiose intentions in the field of flow of information? What is it that has gradually but perhaps inescapably led us to question all over again premises upon which the whole edifice had been built? Why is it that the same United Nations agency which had successfully established agreements to facilitate the free flow of information around the world, today finds it necessary to go through the whole exercise again and initiate studies to look into more or less the same question all over again under a different phrase: "The Right to Communicate?"' Granted that perhaps the new phrase is somewhat wider and deeper in its connotation than the earlier one, nevertheless—if I may be foolish enough to tread on ground which wiser men, by and large, have avoided—it seems to me that free flow of information is perhaps the most significant component in the concept of the right to communicate.'⁴

In the aftermath of the Second World War, when it had been almost impossible to distinguish information from propaganda, and in the context of the 'cold war', this was a legitimate position. Its weakness, clearer in retrospect, was that it portrayed freedom of information largely in passive terms: it was the right to everyone to be informed.

1. *EBU Review*, 118 (1969): 14-18.

(D'Arcy is now member of the Haut Conseil de l'Audiovisuel, France, and President of the International Institute of Communications.)

2. *Ibid.*

3. *Ibid.*

4. Y.V.L. Rao 'Information Imbalance in Asia', p. 59, *Collected Papers*. Today Rao is among the Unesco officials most actively engaged in encouraging work on the concept of the right to communicate.

The flow of information was seen as one-way, from the few to the many, from the centre to the periphery, from up to down. This was the era of the mass media controlled by states or powerful private interests and of a technology which would soon be revolutionized.

Today, information is seen in different terms. It is not just the content of the communication process which is being considered; it is the process itself. The technological development in communications has brought the capacity to communicate into the grasp of many more people. The mass media are giving place to mini-media; soon, perhaps, to the personalized media. Communication is seen not simply as static reception but as active participation. It is two-way, inter-active, participatory, to use the terminology employed in the right-to-communicate discussions.

Instead of the right to communicate being seen as part or the equivalent of freedom of information, therefore, the more fruitful approach would seem to view it as a much wider concept, embracing all those communication rights in previous freedom-of-information and free-flow concepts and other new concepts besides. If it did nothing else, this new approach would, at least, provide the opportunity for breaking the deadlock which has held up progress on the earlier formulations.

As Harms and Richstad put it:

'The post-Article 19 question becomes: How should the communication resources of the world—both skilled humans and appropriate technologies and facilities—be developed to enable everyone to have a balanced, inter-active and participatory Right to Communicate?'⁵

Nevertheless, it has to be accepted that the introduction of the concept of the right to communicate in place of those of the freedom of information and free flow of information may complicate the debate and delay international recognition of rights in the communication field. Pomorski has rightly pointed out that the concept of the free flow is more suitable for legal action than is the concept of the right to communicate.⁶

At the same time, it is clear that the earlier formulations are not likely to be accepted or may be accepted only after interminable delays. They do not express the full scope of communication rights nor do they contain the useful assumption that exercise of rights in the communications field should be closely linked with the fairer distribution of communication resources. Most of those engaged in the discussion would agree that the right to communicate is a much richer and more comprehensive concept and that it subsumes all the rights and freedoms contained in the earlier formulations while going beyond them to express other valuable aspects of the subject.

The problem is to agree on a definition that expresses all that the right to communicate implies.

5. L.S. Harms and Jim Richstad: 'Right to Communicate: Human Rights, Major Communications Issues, Communication Policies and Planning', p. 96, *Collected Papers*.

6. Jerzy Mikulowski Pomorski, 'The Right to Communicate: Emerging concept and international policy', pp. 39-51, *Evolving Perspectives*.

5. The studies

In the absence of any formal channel to guide and support it consistently, the study of the concept of the right to communicate has advanced in hiccups according as sporadic interest has been taken in it by individuals or organizations like the International Institute of Communication and Unesco. The history of developments since D'Arcy's article is given in detail by Richstad, Harms and Kie.¹

D'Arcy himself wrote two more articles on the subject shortly after the first and his ideas influenced the Canadian Telecommunication Studies. One of the major reports contained what the Richstad, Harms and Kie article describes as 'probably the first major examination of the parameters of the Right to Communicate'. The report, called *Instant World*, listed freedom of knowledge and freedom of speech as among the most valued privileges of a democratic society. It continued:

'The rights to hear and be heard, to inform and to be informed, together may be regarded as the essential components of a "right to communicate" . . . The realization of a "right to communicate" is a desirable objective for a democratic society, so that each individual may know he is entitled to be informed and to be heard, regardless of where he may live or work or travel in his own country.'²

Since D'Arcy was a member of the then International Broadcast Institute, now renamed the International Institute of Communications, it was natural and appropriate for that body to become interested in his concept. The Institute took 'Man and the Right to Communicate' as the theme for its annual meeting in Nicosia, Cyprus, in October 1973 and invited D'Arcy to prepare the keynote paper.

In it, he identified one of the aspects which was to produce most disagreement among those who tried later to define the right to communicate. He wrote:

'Successive freedoms result from the tension between the individual's need to communicate and societal need to establish its own channels of communication and expression.'³

During subsequent discussions on the concept of the right to communicate, one of the most contentious questions was where to locate the right—in the individual or in the community (society, region or nation) of which he or she formed part. This question raised issues in law, in international relations and in the basic understanding of the human condition which show no signs of being easily or quickly resolved.⁴

D'Arcy finished his presentation with a forecast. He said:

'Three hundred years separate Gutenberg's invention from the recognition of the right corresponding to it: freedom of expression. Only thirty years separate the

emergence of mass media from the proclamation by the universal community of man's right to information. Within a relatively short period of time the full development of the more sophisticated technological tools will result in the formulation of a new right: the right of man to communicate.

New thinking is now due. A new philosophy and a new approach to communication issues would lead to studies for the reshaping of both national and international communication structures. To propose already at this stage the future recognition of this right of man and of nations to communicate would give fresh insight to research on such problems as the declaration and convention on freedom of information now pending at the United Nations, access and participation, the multilateral flow of information and the preservation of the cultural heritage . . . This is the proposal I wish to make today.'⁵

In the summer of 1974 the first efforts were made to organize and integrate the study of the right. E. Lloyd Sommerlad, who had taken leave from Unesco, where he had been Chief of the Division of Free Flow of Information and Communication Policies, co-operated with Harms and Richstad to prepare a two-page 'justification paper' on the Right to Communicate. The paper said that:

'Communication is the basic human process not only in each local community but also in the emerging world community. The human communication process flows back and forth through every social institution and is essential to many aspects of human development. Consequently, the realization grows that everyone must have a right to communicate.'⁶

The paper made the point that other rights, such as a right to information and a right to assembly, had already been partially secured. Additional rights were being discussed. Before partial and sometimes conflicting rights become codified, the paper urged, a multi-cultural conceptualization of the broad lines of a right to communicate seemed essential.

Following on initiative taken by the Swedish delegation, the eighteenth session of the Unesco General Conference in 1974 authorized the Director-General to study and define the Right to Communicate in consultation with competent

1. Jim Richstad, L.S. Harms and Kathleen A. Kie, 'The Emergence of the Right to Communicate', pp. 112-136, *Collected Papers*.

2. P. 3, *Instant World*, Information Canada, 1977.

3. Jean D'Arcy, 'The Right of Man to Communicate', reprinted pp. 45-52, *Collected Papers*.

4. See Chapters 8 and 9.

5. Op. cit., p. 52.

6. Op. cit., p. 118.

organs of the United Nations and with professional organizations and other interested institutions, and to report to the nineteenth session of the General Conference on what further steps should be taken.⁷

In a subsequent letter to Member States and Unesco National Commissions, the Director-General of Unesco wrote:

'At a time when there is a growing awareness of the fundamental importance of communication in a democratic society, new technologies are offering possibilities of expanding and transforming communication systems, as well as opportunities for participation and interaction at both the community and national levels. Since the adoption of the Universal Declaration of Human Rights in 1948, technological changes have added new dimensions to the rights to information proclaimed in Article 19, and have thus led to a demand for a profound study of what is being called the Right to Communicate.

As mentioned during the debate at the General Conference, this is a new concept. Communication, it was pointed out, should be a two-way process involving the right to inform as well as to be informed—a dialogue between people and a free and balanced flow of information between nations. The Right to Communicate, it was agreed, should be based on the present and future communication needs of man and should be an integral part of the communication policies formulated by Member States.'⁸

In the year 1975, one of the most comprehensive discussions of the right to communicate took place over four days at the annual meeting of the International Broadcast Institute (now the IIC) in Cologne, West Germany. The working group felt it better not to attempt a definition of the right but drew up what it called a 'description' of it. It read:

'Everyone has the right to communicate. It is a basic human need and is the foundation of all social organization. It belongs to individuals and communities, between and among each other. This right has been long recognized internationally and the exercise of it needs constantly to evolve and expand. Taking account of changes in society and developments in technology, adequate resources—human, economic and technological—should be made available to all mankind for fulfillment of the need for interactive participatory communication and implementation of that right.'⁹

Mainly as a result of the Cologne meeting, the two most important publications in the field were prepared. These publications, referred to in the introduction to the present paper and quoted extensively in it, were *Right to Communicate: Collected Papers*, edited by L.S. Harms, Jim Richstad and Kathleen A. Kie (published by the Social Sciences and Linguistics Institute of the University of Hawaii at Manoa) and *Evolving Perspectives on the Right to Communicate*, edited by L.S. Harms and Jim Richstad (published by the East-West Center of the East-West Communications Institute of the above-named university). These books are essential reading for anyone interested in the topic.

At its twentieth session of the General Conference (1978), Unesco adopted a resolution authorizing the Director-General 'to carry out activities contributing to the promotion of research on measures aimed at assuring human rights in the light of the principles set forth in the Universal Declaration on Human Rights'. The resolution invited the

Director-General 'to encourage in-depth study and discussion on the concept of the Right to Communicate'.¹⁰

As a result of this resolution, Unesco has sponsored a series of meetings on different aspects of the concept. The first of these meetings was held in Stockholm in May 1978. The final report said that 'there seemed to be general agreement that the right to communicate is not an established legal principle but an evolving concept' and recommended further action as follows:

- (a) The concept of the right to communicate requires further scrutiny, research efforts, and in-depth studies from diverse cultural settings.
- (b) In the quest for a working definition of the right to communicate, it is recommended that investigation is made of all relevant and related rights which may be embraced by or referred to in such defining of the right to communicate itself, including possible new rights such as a right to select and a right to co-create information.
- (c) The underlying principles of access and participation should be paramount in any further study, particularly in efforts to implement the right to communicate.
- (d) Since the international aspect of the right to communicate did not figure on the agenda and was only peripherally explored, it was suggested that another international meeting of experts (Category VI) should be convened to examine it, particularly in the light of the new international communication order.
- (e) A working group within Unesco should be mandated to pursue the study of the right-to-communicate concept in order to understand better its potential range of application, keeping in view the realities of international law as well.
- (f) The recommendations of this meeting should be fed into Unesco's intergovernmental conferences on communication policies in Asia, Africa, etc., as well as other policy conferences in related areas such as education and culture.¹¹

The interim report of the MacBride Commission, published some four months after the Stockholm meeting, gave consideration of the concept a new impetus. The report declared that 'the individual right to communicate, to transmit and to receive information, should constitute a fundamental human right'.¹² It also called for further study on the concept, stating:

'This concept (i.e. the right to communicate), in which are articulated the notions of freedom, responsibility, balance, access and participation, is today tending to replace that of right to information, itself relatively recent, which already embraced those of freedom of expression and freedom of the press.

Despite the ambiguity attaching to the concept, the right to communicate implies a two-way communication, give-and-take, an interrelationship. It involves several fundamental freedoms affecting not only individuals but also groups and nations.

7. Resolution 4.121 (c.iv) adopted by the eighteenth session of the General Conference, 1974.
8. Letter of the Director-General, CI/2440, 1976.
9. International Broadcast Institute, Annual Conference 1975, pp. 22-23.
10. Resolution 4/1.1/1, 1978.
11. Meeting of Experts on the Right to Communicate: Stockholm, paragraph 71, Unesco CC-78/Conf.630, November 1978. See Appendix A.
12. Interim report on communication problems in modern society. Unesco: CC-CIC-78/WS/39, September 1978, paragraph 94, p. 43.

Would it not be expedient to explore means of reducing the gulf separating intellectual speculation on this right from the concrete realities of communication in the world today? What is at stake amply justifies the efforts involved, if recognition of this right can constitute a step forward towards the establishment of a new world information order.¹³

Further Unesco-sponsored meetings of experts on the concept of the right to communicate were held in Manila (October 1979), London (March 1980), Ottawa (September 1980), Strasbourg (September 1981) and Bucharest (February 1982).¹⁴

The Ottawa meeting reconsidered the 'description' of the right to communicate agreed on at the IBI/IIC meeting in Cologne in 1975 and decided to seek an improved definition. The following formulation was agreed:

'Everyone has the right to communicate. Communication is a fundamental social process which enables individuals and communities to exchange information and opinions. It is a basic human need and the foundation of all social organization. The right to communicate belongs to individuals and the communities which they compose.'¹⁵

Meanwhile, the final report of the MacBride Commission had expanded on the treatment of the concept of the right to communicate in its interim report and included in its recommendations a paragraph as follows:

'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 inform, 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.'¹⁶

Current work on the concept is being conducted mainly by Unesco, which has included it in its ongoing programme, and by the International Institute of Communications, which has recently received Unesco grants for further study in the field.

13. Ibid, p. 76, paragraph 230-2.

14. See Appendices B, C and D.

15. Working Group on Right to Communicate, Ottawa, September 1980, Final Report, p. 2.

16. 'Many Voices, One World', paragraph 54, p. 265.

6. Rights and freedoms

Major differences exist between countries, cultures and ideological systems on the question of human rights. Do such rights exist? What are they? How are they defined? What are their constituents? Who or what is the subject of them? How are they distinguished from freedoms? Are they amenable to international law? How and when can they be restricted?

A basic problem arises over the use of the word 'right' itself. In English and in other languages, one word is used to express two ideas, one concerning law, the other justice. Justinian, in the *Codex Justinianus*, distinguishes between a public and a private or individual right: 'Publicum jus est quod ad statum rei Romanae spectat; privatum quod ad singulorum utilitatem pertinet'.¹ St. Thomas Aquinas, with his usual acuity, distinguishes between the lawyer's *jus* and the moralist's *justum*. And the Minister for Justice in Ireland has his portfolio rendered in Irish by two words: *dli* (law) and 'ceart' (right or justice).

In any international or cross-cultural debate on a human right, it is important, therefore, to determine if the two distinct concepts embodied in the English 'right' (i.e. law and justice) are contained in the German 'recht', the Spanish 'derecho', the Portuguese 'direito', the French 'droit', the Russian 'právo' and so on.

The distinction between the two connotations is important in determining the legal standing of a human right in national and international legal systems. If a 'right' is merely a law, then, obviously it is within the competence of states to concede or withhold it. If it is a fundamental entitlement, a condition necessary for the development of human life and the proper functioning of the human being and the society to which he or she belongs, then the state is no more entitled to deny or restrict it than it is to deny or restrict the right to life itself.

In the case of the right to communicate, the two connotations of law and justice are clearly involved. The right is generally accepted as valid from the point of view of justice. A human being must communicate in order to be human; therefore, the right to communicate is a basic human right and should be stated as such. The only objection comes from those who feel that communication is so fundamental an aspect of human nature that it is wrong to classify it as a human right on the same level as the right of assembly, of opinion, of expression, etc. Kaarle Nordenstreng of Tampere University in Finland has argued that the right to communicate

'is a notion which in a certain essential way defines a human being; it is a principal quality of what we mean by a human being, and it is not just a particular condition or form of arrangement relating to human nature and behaviour. Consequently, as we are faced with such a

fundamental issue, there is a risk that we, in fact, vulgarize and trivialize the notion of communication if we define it in terms of a "right to communicate".'²

This, however, seems to be a minority, almost an idiosyncratic, opinion. As Don R. Le Duc says:

'According to the fundamental law of most modern nations, a right to communicate or some variant of freedom of speech is not only recognized but already guaranteed to every citizen in the broadest of terms.'³

When it comes to embodying the right to communicate in law, however, opinions vary. According to some viewpoints, the impossibility of guaranteeing such a right to everyone without restriction is an argument against promulgating it in law. Pomorski, for instance, describes such a proposition as 'utopian'. While accepting that

'every legislator has the right to make "bad" laws, laws that are a dead letter paralysed by lack of administrative reinforcements or limited by many legal exceptions, or laws that will produce more negative effects in their social functioning than are expected,'⁴

he questions whether it is advisable to make such laws.

The rationale for embodying the right to communicate in law is that acknowledgement of the existence of a right should necessarily result in acknowledgement of the existence of corollary duties. One person's right is another's duty, a responsibility for providing the conditions in which the first person can exercise the right. Such a responsibility on the part of others can be laid down and maintained only through the process of law.

Perhaps the right is better expressed as a 'freedom'. Or is there a difference between the two concepts? According to Cocca,⁵ 'right' implies a norm which must be complied with without any qualifications, deviations or hesitations. It is an entitlement which derives from the intrinsic nature of the subject of the right and from the very nature of the right itself. It implies, as stated above, that others have no power to deny the right and a positive obligation to respect it and to provide the environment for its exercise.

1. *Institutiones Justiniani*, Lib. I, Tit. I, 4.

2. Kaarle Nordenstreng: Summary of intervention at Unesco meeting of experts. 'Towards a definition of the right to communicate', Stockholm, 8-12 May 1978.

3. Don R. Le Duc: 'The right to receive communications: A thought worth entertaining' pp. 157-167, *Evolving Perspectives*.

4. Op. cit., p. 44.

5. Aldo Armando Cocca: 'The Right to Communicate: An evolutive concept for a new personal and social dimension of a fundamental human right', pp. 22-37, *Evolving Perspectives*.

A right expresses a continuing need, one which if refused or curtailed affects the very being of the subject. Human beings cannot be deprived of their right to live and still exist: neither can they be deprived of their right to communicate without diminishing their human dignity and denying their very humanity.

Freedom has a more limited connotation. The implication is that its subject has a choice of exercising it or not. By choosing not to do so, the subject is in no way diminishing his or her status as a human. Again, others are obliged only to refrain from hindering the exercise of a freedom; there is no obligation on them to promote its exercise.

The 'right to communicate' is therefore, a much more fundamental concept than the 'freedom to communicate'.

The question must also be asked whether 'the right to communicate' is the best way to state the concept? Why not 'the right of communication'? Some argue that the latter is too static a formulation, that it refers more to the content of what is communicated rather than to the act of communication itself. This is why the expression 'droit à la communication' is preferred by most French writers on the subject to 'droit de la communication' and 'das Recht zu Kommunizieren' by German writers to 'das Recht auf Kommunikation'. Cocca points out usefully that the Spanish usage 'el derecho a comunicarse' (literally, the right to express oneself) makes it clear that it is the action of communicating rather than the content of the communication itself which is being described.⁶

The danger of confusing rights and freedoms becomes clearer when it comes to determining what the definition of the right to communicate is thought to contain. There seems to be general agreement that it is an 'umbrella concept', embracing a series of rights and freedoms in the field of communication. Some of these rights and freedoms have already been defined and, in a few cases, ratified in national legislation. Others are still the subject of examination and debate; others still may not yet have been identified.

Those who are working in this field do not underestimate the difficulty and complexity of their task. They recognize that they will not quickly or easily devise a swift sword-stroke to cut the Gordian knot in which the many aspects of the concept are entangled. Martelanc puts their dilemma clearly:

'Most of the authors agree that the old notion of "freedom of information" is somewhat obsolete like the "laissez faire" principle in economics. They seem to reach a concerted view that the Right to Communicate should: stress the equality of all partners in the communication process; embrace a multi-cultural, multi-way flow of information—and include a passive as well as an active right to communication, allowing for the highest possible degree of feedback, participation and access. To quote Bert Cowlan, "communication is an action best translated by a verb". On the other hand, the emphasis and the attention paid to the idea of the Right to Communicate seem to be diversified. The accent varies as to: the national or international connotation of this right, and it differs whether one places society or the human being at the centre of the development and the communication process; whether it means the elimination of the scarcity in communication resources or the protection of individuals from the redundancy of information; whether there is primary necessity to satisfy the basic needs of all people for information or rather to safeguard them from possible abuse and manipulation via the arbitrary and alienated power of the mass media; and whether it has

to secure a universal Right to Communicate or to provide also the right not to communicate and not be communicated with.'⁷

'Instant World', the report of the Canadian Telecommunication, lists 'the rights to hear and be heard, to inform and to be informed' as the 'essential components' of the right to communicate.⁸

Hindley lists the following constituents of a general right to communicate:

1. The right to speak;
2. The right to be heard;
3. The right to a reply;
4. The right to make reply;
5. The right to listen.⁹

Cocca adds the following to the list:

6. The right to see;
7. The right to be seen;
8. The right to express oneself in writing or in print;
9. The right to express oneself in the form of art;
10. The right to be selective, (a concept which Cocca prefers to the so-called 'right not to communicate' which is favoured by other writers as an expression of the individuals right to privacy or 'right not to be informed'.)¹⁰

An attempt to group some of these concepts together was referred to by Aldo Armando Cocca in a contribution to a symposium organized by the Hanns Seidel Foundation in May 1978.¹¹ This listed three stages in the evolution of the aspiration of human beings to reach understanding among themselves, viz:

- (a) The right to communicate seen as a right to freedom of opinion and expression;
- (b) The right to communicate enlarged to encompass the freedom to inform others and to be informed oneself, thanks especially to the means offered by the mass media;
- (c) The right to communicate seen as a capacity for interaction and dialogue, a facility for access and participation and involving obligations and responsibilities.

A preliminary analysis of the right to communicate was grouped first under three basic elements:

- (a) rights of the individual;
- (b) rights of the means or media of communications (including the professional groups involved);
- (c) rights of local, national and international communities.

For individuals, the most important rights were seen to be:

- freedom of opinion and expression;
- right to be informed;
- right to inform;
- protection of privacy;
- freedom of movement;
- right of assembly;
- access to sources of information.

For institutions the specific rights listed were:

- access to sources of information;
- freedom of opinion and expression;

6. Op. cit., passim.

7. Tomo Martelanc: p. viii. Foreword to *Collected Papers*.

8. *Instant World*, Information Canada, Ottawa, 1971, p. 3.

9. Henry Hindley: 'A Right to Communicate? A Canadian approach', pp. 119-127, *Evolving Perspectives*.

10. Ibid.

11. A.A. Cocca, 'District Satellite Broadcasting of Radio and Television' in 'Freedom of Information—a Human Right', Hanns Seidel Stiftung, Munich 1978, pp. 71-73.

- right to inform;
- right to publish;
- freedom of movement;
- maintenance of professional secrecy.

Communication rights of nations in their external relationships seen to be of high importance were the following:

- right to inform;
- free and balanced flow of information;
- preservation of cultural integrity;
- cultural exchange;
- freedom of opinion and expression;
- right to be informed;
- right of correction;
- right of reply.¹²

A listing of the rights of individuals in the field of communication is given in the MacBride Commission Final Report:

- (a) The right to know; to be given, and to seek out in such ways as he may choose, the information that he desires, especially when it affects his life and work and the decisions he may have to take, on his own account or as a member of the community. Whenever information is deliberately withheld, or when false or distorted information is spread, this right is infringed.

- (b) The right to impart: to give to others the truth as he sees it about his living conditions, his aspirations, his needs and grievances. Whenever he is silenced by intimidation or punishment, or denied access to the channels of communication, this right is infringed.

- (c) The right to discuss; communication should be an open-ended process of response, reflection and debate. This right secures genuine agreement on collective action, and enables the individual to influence decisions made by those in authority.

To these basic rights, we should add the right to privacy. The individual often needs to be protected from intrusion into his personal life, an intrusion against which he may be defenceless when it is backed by the power of modern technology.¹³

A simple listing of those rights and freedoms put forward as constituent parts of the right to communicate indicates both the richness and the complexity of the concept and the difficulty of producing a comprehensive and yet comprehensible working definition of the right.

12. Ibid.

13. Op. cit., p. 113.

7. Towards a definition

The efforts to agree on a definition of the right to communicate have been hindered by two conflicting approaches. One set of protagonists wants the definition to state the fundamental nature of the concept as a basic and inviolable human right. To this end, they would like to have the right stated as clearly, as simply and as free from complications, qualifications and descriptions as the right to life or the right to freedom. Only in this way, they believe, will the importance of the right be emphasized and denials of it shown up as contrary to the deepest human needs.

Another group of protagonists wants the definition to be as all-embracing as possible. The final report of the study group meeting held in London in March 1980 stated, for instance, that the right to communicate should be seen as 'a dynamic and flexible concept'; should 'take into account the diversity of information flows in society and the social purpose of these flows', should 'express positive social values'; should 'recognize the relationships between communication and development', and so on and so on. It also wished the right to 'be so conceived as to take into account the different levels of communication'—individuals, social groups, institutions, national, regional and international.¹

It seems obvious that no definition as such can support the piling of Ossa on Pelion to this extent. The right to communicate is not a panacea for the world's ills. It is not going to solve the problems of development, of a more balanced communications flow, of a fairer distribution of communications resources nationally or internationally. It is not going to ensure world peace, advance education, or redress the disabilities of the Third World. Those who seek to use the concept of the right to communicate either as justification for promoting 'cultural imperialism' or for fighting it or for economic and political aims, are prostituting it for ends which, however worthy, should not be linked to the fundamental human right to communicate.

Mr Francisco S. Tatad, the Philippine Minister of Public Information, expressed a very general feeling at the Unesco meeting of experts on the right to communicate held in Manila in October 1979. Warning that the effort to encapsulate in one single principle all the norms we seek to constitute in modern communication will be a very difficult one, he said:

'Even as initially delineated in previous Unesco discussions, "the right to communicate" is already burdened by a host of considerations, including, among others, the information gap between developed and developing countries, access and participation in the communication process, the responsibilities of the media and communicators, the sovereignty of states, etc.

What we fear most is the possible distortion of meaning that will attend the principle, when we do succeed in

reducing it to a singular statement; and the even greater likelihood that it will be so general as to permit international consensus while being at the same time disembodied of meaning.'²

Despite the difficulties, however, Mr Tatad asked the experts to:

'bear in mind that we are in fact setting forward a normative view of communication that will relate to all its aspects—legal, moral, technological—and embrace all levels—individual, national and international.

We have to attempt a definition of principles that will in sum reflect a global view of communication needs, problems and possibilities; and if we must delineate it in specifics, we ought to do so, if only to avoid the pitfalls of other human rights that have been exhausted from too much generalization and too little elaboration.'³

It is certainly valid to expect that, before a definition of the right to communicate is agreed on, all the concerns and considerations mentioned at the London meeting and elsewhere throughout the documentation and discussions on the subject should be integrated into the overall concept.

While such integration is necessary in the conceptual stage, however, it seems to some to be counter-productive to attempt it in the definition of the right to communicate itself.

The definition of the right to communicate cannot be stretched to include the whole range of freedoms—of expression, of opinion, of information, of the press, of the journalist and so on—which are involved in communication. All of them are not of the same importance, from the philosophical point of view. Some are more fundamental than others. Some of them permit of restrictions and exceptions not applicable to others. To try to include them all in the same definition would be to confuse the issue and reduce the value of the 'parent' right.

Fisher argues for a careful differentiation between the various constituents of the right to communicate so that the fundamental right itself is not depreciated.

'If the basic human right, the freedoms that derive from it, and the practical entitlements necessary for their exercise are not hierarchically differentiated and are all wrapped up too intimately and intricately in the same definition or description, the affirmation of the basic right itself will be weakened. This will be true because

1. See Appendix C.

2. Francisco S. Tatad, 'Communications in a new key: a normative approach'; p. 7.

3. Ibid.

the overall definition must allow for possible limitations on the exercise of the relevant freedoms and entitlements deriving from it, and in some way these limitations will be regarded as applying to the basic right itself.

Better by far to state the right in absolute terms as the inviolable core and, separately, specify the freedoms it entails, the practical entitlements necessary for their exercise, the circumstances that may justify limiting such exercise, and the extent of justifiable limitation.⁴

A Unesco working document, in organizing the concept of the right to communicate into four levels, takes the same approach. It proposes:

- (a) *A universal right to communicate*: a comprehensive, culture-fair, and general human right, valid in all societies and at all levels and seen as a long-term goal.
- (b) *Specific communication rights*: a set of rights capable of being defined and acted upon and providing a framework for technical examination of entitlements and practical application of a general right.
- (c) *Communication responsibilities*: rights cannot be exercised without reference to their effect on others. . . Rights must be matched by responsibilities; those who exercise communication rights are accountable to society for their actions, in the light of the common good.
- (d) *Communication issues*: in every society a series of communication problems and possibilities will be under continuous review concerned with processes, policies, activities, resources, structures, legislation, etc., at four different levels including state, community, individual and institutional. . . .⁵

The hierarchical approach is supported by international jurists who recognize two distinct categories of human rights. Primary rights, like freedom of religious belief and the right of members of society to choose their own government, are universal and inviolable. Secondary rights, like freedom of speech, of assembly and of association, are not among the fundamental human rights because they are not absolute and may be limited.⁶

A hierarchical approach would, therefore, establish the right to communicate as a fundamental human right at the centre (or apex, depending on the conceptual 'picture') of a series of secondary rights and freedoms deriving from the basic right to communicate. These secondary rights would protect the practical implementation of the right to communicate but would be subject to restrictions and limitations.

The right to communicate would, in this conceptualization, be seen as the inner core of a series of interconnected freedoms in the area of communications. Round it would be freedom of opinion, freedom of expression and freedom of information—freedoms which are not absolute in themselves but which represent the main areas of human life in which the fundamental right to communicate is exercised.

The secondary or derivative freedoms of opinion expression and information are, in turn, exercised by various practical expressions—the freedom of the press, the absence of censorship, the independence of broadcasting, the right of journalists to protect their sources, the right of access to information and so on. In turn again, these freedoms generate entitlements—of the journalist to have access to information and information sources, of the citizen to a right of reply, of newspaper readers to a range of opinion, of the subject to 'open government' and so on.

While the fundamental right to communicate must be universally respected as a basic human right, it is exercised in practice through the secondary freedoms and entitlements which may be limited. Thus, the freedoms of information, of opinion and of expression, which are constituent

parts of the central right to communicate, are, in essence, inviolable. In practice, however, their exercise through a free press, open association with others, access to information, independent broadcasting is subject to restrictions and limitations.

As Samuel Handel put it:

'The fact, in short, is that freedom, to be meaningful in an organized society, must consist of an amalgam or hierarchy of freedoms and restraints.'

For instance, Article 10, Section I, of the European Convention on Human Rights guarantees freedom of expression (including 'freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers'). Yet this is limited in Section 2, which reads:

'The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.'

The real difficulty is in deciding what is the common good, public order, public morality, etc. Unfair restrictions on the exercise of freedoms can be applied by states using their claim to represent the common good as justification for repression and suppression of individual human rights. The justification for restrictions was reflected in the report of the International Commission of Jurists Congress in New Delhi which said:

'Freedom of speech, assembly and association are not absolute. Their exceptions are justified by the necessity of reconciling the claims of different individuals to these rights and the criterion whereby this reconciliation can be effected is the concern of the law to ensure that as a whole the individual's status and dignity are observed.'⁷

This introduces a significant concept into the consideration of a society's rights to limit or restrict the freedom of expression, opinion, etc. What it means is that the only criterion that is acceptable for such limitation is to protect a primary right, be it a right to life, to religious belief, the free choice of government or, if it is established in this category, the right to communicate. In other words, the entitlements deriving from freedom of expression may be limited but the criterion for so doing is the protection of other superior or equal rights, including, perhaps, another individual's freedom of expression. This provides the basis for judging the actions of governments or of societies in limiting the exercise of freedoms in the field of communication.

4. Desmond Fisher, 'The Right to Communicate: A philosophical framework for the debate, *Evolving Perspectives*, p. 96.

5. Quoted in 'Towards a definition of the right to communicate: an expert meeting', Unesco CC/78/CONF.630/2, p. 19. This was a working document prepared for the Meeting of Experts on the Right to Communicate, held in Stockholm in May 1978.

6. Cf. 'The Legislature and the Rule of Law', a working paper for the first committee of the International Commission of Jurists in New Delhi, 1959. Quoted in the *Rule of Law in a Free Society*, a report on the New Delhi Congress, Geneva, International Commission of Jurists.

7. Op. cit., p. 213.

8. The individual and society

One of the biggest obstacles to agreement on a definition of the right to communicate is caused by conflicting political and ideological views on the locus of human rights.

Up to the French Revolution, the European tradition, based on Greek philosophical concepts and Christian ethics, vested human rights in the individual. They were seen as intrinsic to the human person, not conceded by the state. The function of the state was either to keep out of law-making entirely in areas where human rights were involved¹ or to provide the regulatory mechanisms through which individual human rights could be exercised and conflicting claims for their exercise resolved.

The French revolutionaries did, of course, proclaim 'the natural and imprescriptible rights of man'. But they also held that 'the source of all sovereignty is located in essence in the nation; nobody, no individual, can exercise authority which does not emanate from it expressly.'² Inevitably, the nation came to be identified with the state and the idea of the rights of the individual *against* society, of the citizen *against* the state, which is the basis of the rule of law in the older tradition, was rejected.

In many countries today, this concept of the supremacy of the state prevails. According to it, freedoms belong collectively to society and not individually to its citizens. Society, in the shape of the state, articulates their consensus, determines the common good and guarantees freedoms.

Socialist countries hold that communications at a national level are totally within the competence of the individual state while communication at an international level must be based on the principles of international law.

At the same time, the socialist view is that communication rights should be considered in their practical application rather than in the abstract. Socialist thinkers, therefore, insist on the collectivization of human rights and dismiss as 'bourgeois liberalism' the view that the subject of them is the individual.

On the other hand, locating the right in the individual involves a recognition that it cannot be abrogated or curtailed except in the interests of public order or the common good and then only when the exercise of a right by one individual can be shown to restrict the exercise of the same or a different right by others.

The difference between the two viewpoints is reflected in existing laws in regard to freedom of expression. The following examples of international and national legislation reflect the view that the individual is the locus of the right:

The Declaration of the Rights of Man and of the Citizen, promulgated in 1789, contained, in Article 11, the guarantee that 'the unrestrained communication of thought or opinion being one of the most precious rights of man, *every citizen* may speak, write and publish

freely, provided he be responsible for the abuse of this freedom in the cases determined by law.'

The Universal Declaration of Human Rights (1948), Article 19, states that '*everyone* has the right to freedom of opinion and expression'.

The European Convention on Human Rights (1950) states, in Article 10, that '*everyone* has the right to freedom of expression'.

The International Covenant on Civil and Political Rights (1966) states, in Article 19 (Sections 1-2), that '*everyone* shall have the right to hold opinions without interference' and '*everyone* shall have the right to freedom of expression'.

The constitutions of many states, in legislating for rights in this area, also make the individual the subject.

The Austrian Constitution (Article 13) says that '*everyone* has the right within the limits of the law freely to express his opinion by word of mouth and in writing, print or pictorial representation'.

The Danish Constitution (Article 77) says that '*any person* shall be at liberty to publish his ideas in print, in writing and in speech, subject to his being held responsible in a court of law'.

The Constitution of the German Federal Republic, Article 5, Section 1, reads: '*Everybody* shall have the right of freely expressing and disseminating his opinion by word of mouth, in writing and through pictures and to inform *himself* unimpededly from generally accessible sources'.

The Italian Constitution, Article 21, reads: '*All persons* have the right freely to express their own opinions with the spoken or written word and any other means of dissemination'.

All the foregoing legal formulations recognize the individual as the subject or locus by the right to communicate. The contrasting view that society, not the individual, is the subject is reflected in legislation in socialist states. Examples are:

The citizens of the USSR are guaranteed by law (a) freedom of speech; (b) freedom of the press; (c) freedom

1. Cf. First Amendment to American Constitution regarding religious freedom: 'Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof'. Text in Beard, *A New Basic History of the United States*. (Macmillan, London, 1960), p. 48.

2. Declaration of the Rights of Man and of the Citizen, 1789. Text of Beik, *The French Revolution: Selected Documents*. London, 1971, p. 95.

of assembly, including the holding of mass meetings;
(d) freedom of processions and demonstrations.

— Chapter X, Article 125, of the Constitution of the USSR.

Citizens of the People's Republic of China enjoy freedom of speech, freedom of the press, freedom of assembly, freedom of association, freedom of procession and demonstration.

— Chapter III, Article 87, of the Chinese Constitution.

Freedom of the press and other media of information, freedom of association, freedom of speech and public expression and freedom of public meetings shall be guaranteed.

— Chapter III, Article 40, of the Yugoslav Constitution.

The differences between the two concepts are fundamental and, perhaps, too great to bridge. One, by recognizing a right, places limits on the authority of the state; the other establishes the state as the guarantor and, therefore, as the arbiter of freedoms. The first locates the right in the individual; the second accords it to amorphous groups such as 'society', 'all persons' or 'the citizens'. The one recognizes the individual's rights as absolute; the second qualifies the guarantee of freedoms as, for instance, in the articles of the Soviet Constitution quoted above which guarantees freedom of expression and of the press 'in the interests of the working people and to strengthen the socialist system', and in the Yugoslav Constitution which, having guaranteed communication freedoms, adds that 'these freedoms and rights shall not be used by anyone to overthrow the foundations of the socialist democratic order determined by the Constitution, to endanger the peace, international co-operation or terms of equality, or the independence of the country'.

This conflict between the view of the state as the source and protector of fundamental freedoms and the view that individual human rights set a limit to the authority of the state derives from a fundamental conflict about the nature of man and society and is the basis of the ideological struggle between east and west. It is also at the heart today of the debate on the right to communicate. The report of the working committee on the right to communicate at the 1975 Cologne meeting of the International Broadcast Institute (now the International Institute of Communications) made the mistake of attempting to gloss over fundamental contradictions. Noting that the right to communicate vested in the individual was 'sometimes contrasted' with the right vested in the community, the report stated:

'The committee found there need be no important conflict between the two concepts, except that in countries holding the view that rights vested in the community were exercised through governments as the repository of those rights. In such a view, the right of individuals to communicate may be exercised only to the extent that it does not conflict with the established social and political order.'³

Problems are not solved by pretending that they are not there. Despite the Cologne working committee's optimism, there is a clear and important conflict between the two views on the locus of the right to communicate. There is general agreement that both the individual and the community have a right to communicate. But there is a conflict of opinion over whether both these rights are of the same order. Does the right of the individual arise only because the individual is part of a society in which the basic right resides? Or does society have a right to communicate which

derives from and is, therefore, subsidiary to the right of the individual to communicate?

The former viewpoint was expressed clearly by Dr. Wolfgang Kleinwächter of the Institut für Internationalen Studien in the Karl-Mark-Universität in Leipzig as follows:

'Communication between natural and juridical persons, i.e. persons, organizations, institutions of mass communications or groups within a given society, lies in the competence of a given state . . . Regarding the right to communicate, only the state can guarantee this right both for individuals, institutions and groups within a given society.'⁴

Beltrán and Fox de Cardona agree substantially with this view. For them, an individual's freedom of communication is limited by the communal rights of his social milieu.

'Thus, in general, but especially in the event of discrepancy or conflict, the communication rights of society (as a whole or in terms of its majority groupings) should prevail over those of individuals in isolation.'⁵

D'Arcy asserts that 'for society, as for the individual, there is undoubtedly a right to communicate'.⁶ He does not suggest that either is primary, however, seeing the two rights as equal forces in a creative tension.

'Thus', he writes, 'there are two forces at work: that which impels the individual, for his very existence's sake, to assert his right to communicate, thereby forming, through the communication established with his fellows, a society; and that which drives the society thus formed to work out, in order to be able to function and express itself, ever more elaborate means of communication leading to ever more highly developed social structures. It is from this tension between the individual's need to communicate and society's need to establish its own channels of communication and expression, from the tension between the two rights—that of the individual and that of society—to communicate, that successive rights, duties and freedoms have sprung.'⁷

The MacBride Commission, in its Final Report, does not differentiate between the individual's right and that of society. It merely says:

'Our conclusions are founded on the firm conviction that communication is a basic individual right, as well as a collective one required by all communities and nations.'⁸

Fisher, however, insists that the individual's right is fundamental and that the rights of society spring from it. He holds to the view that

' . . . the right to communicate is essential to the individual for the development of his/her human potential and must, therefore, be considered as a human right in the same

3. International Broadcast Institute, Report of Annual Conference, 1975, p. 22.

4. Wolfgang Kleinwächter, 'Internal and international aspects of the right to communicate', paper presented at Unesco meeting of experts on the right to communicate, Stockholm, May 8-12, 1978, p. 2.

5. Luis Ramiro Beltrán S. and Elizabeth Fox de Cardona, 'Communication rights: a Latin American Perspective', *Evolving Perspectives*, p. 149.

6. Jean D'Arcy, 'The Right to Communicate', International Commission for the Study of Communication Problems, Research Paper No. 36, p. 2.

7. Ibid.

8. Op. cit., p. 253.

category as the right to life, the right to freedom, the right to religion, etc. The locus of it must, therefore, be the individual.⁹

He goes on to say that

A great deal of confusion is caused if it is sought to establish that the same right—or a right of the same degree of fundamental human significance—exists in a community, a group of people, a nation or a region. Such groups may and do have a right to communicate. But their right is not the same—at least in degree—as that pertaining to the individual.¹⁰

This leads him to support the idea of

a hierarchy of rights, freedoms, responsibilities, and entitlements, starting with the basic right of the individual to communicate and being developed into a set of

freedoms, entitlements, and obligations, devolving on the individual and on society in different ways, to enable the right to be freely exercised and expanded.¹¹

It seems safe to predict that unless some way of reconciling these conflicting points of view is found, the debate on the right to communicate will bog down. Some possible areas of compromise are discussed in the next chapter. If they offer any prospect of bridging the east-west gap in this area they should be explored fully.

9. Desmond Fisher, 'The Right to Communicate: Towards a definition', Research Paper No. 37. International Commission for the Study of Communication, Problems, Unesco, p. 16.

10. Ibid.

11. Desmond Fisher, 'The Right to Communicate: A philosophical framework for the debate', *Evolving Perspectives*, pp. 99-100.

9. The individual in society

The argument over the subject of the right to communicate should not be seen as only of philosophical significance. A decision to regard either the individual or society or both as the locus would have an important bearing on the interpretation of national laws and international treaties should the right eventually be incorporated in these.

In practice, however, it is not possible to consider the individual as separate from the society in which he or she lives. The individual does not function except in the context of society; society does not exist outside the individuals in it. As Ruth Benedict says:

'Society in its full sense . . . is never an entity separable from the individuals who compose it. No individual can arrive even at the threshold of his potentialities without a culture in which he participates. Conversely, no civilization has in it any element which in the last analysis is not the contribution of an individual.'

In its implementation in practice, therefore, the right to communicate concerns not just the individual and society but the individual *in* society. A major step forward can be achieved by bringing this concept into the discussion on the right to communicate, since it will help to bridge the present gap. Ruth Benedict reminds us that

'It is largely because of the traditional acceptance of conflict between society and the individual that emphasis upon cultural behaviour is so often interpreted as a denial of the autonomy of the individual . . . The problem of the individual is not clarified by stressing the antagonisms between culture and the individual, but by stressing their mutual reinforcement.'

The problem is to find a *via media* between those who would hold, with B.F. Skinner, that

'if you insist that individual rights are the *summum bonum*, then the whole structure of society falls down'

and those who would say with Julian Huxley

'I believe the state exists for the development of individual lives, not individuals for the development of the state.'

The challenge is how best to promote, protect and expand the good of both the individual and society according to the particular circumstances and in each age according to its lights. Certain societies at certain times will put the emphasis on individualism; in other societies or at other times, the stress will be on the needs of the collective. The recent history of newly-independent countries shows that in the early stages of freedom the accent will be on the collective needs of society; as a society develops, it can afford to give greater freedom to the individual. As Judge Abe Fortas, the great American jurist said:

'The story of man is the history, first, of the acceptance and imposition of restraints necessary to permit communal life; and second, of the emancipation of the individual within that system of necessary restraints.'

Edmund Burke, Ireland's great gift to British politics, put it even better:

'Liberty must be limited in order to be possessed. The degree of restraint it is impossible in any case to settle precisely. But it ought to be the constant aim of every wise public council to find out with how little—not how much—of this restraint the community can subsist. For liberty is a good to be improved and not an evil to be lessened. It is not only a private blessing of the first order, but a vital spring and energy of the state itself which has just so much life and vigour as there is liberty in it.'¹

As stated in the last chapter, any approach which offers a hope of ending the impasse in determining the primary locus of the right to communicate should be explored.

The first possibility arises from the distinction, identified earlier, between a 'right' seen as law and a 'right' seen as justice. Justice deriving from fundamental human rights would be seen as immutable and unqualifiable, while a law would suggest a legal provision subject to qualification.

The second is the distinction between the concepts of 'rights' and 'freedoms'. If it is accepted that rights are vested in the individual while the freedom to exercise such rights is determined by society, in different ways at different times and in different circumstances, there may be some scope for agreement or compromise.

This argument is in line with Ploman's observation that the concept of human rights as embodied in national and international law has gradually evolved. Examining some aspects of international legislation in the area of communications, he notes that if they are seen as a sequence in time, they reveal 'some interesting trends', viz:

- the underlying premise in the International Telecommunication Convention (original version the International Telegraph Convention 1865) is one of separate, totally independent states which agree to co-operate in certain specifically defined areas;
- after the Second World War, the individual human being acquires a position in public international law (United Nations Charter, Universal Declaration of Human Rights, etc.);
- the model for later instruments which embody modern concepts of international law is the Outer Space Treaty of 1967: there is a new recognition of the interdependence of states and the introduction of a new concept,

1. Edmund Burke in 'Letter to the Sheriffs of Bristol'

i.e. humankind, which goes beyond the traditional categories in international law, such as the nation-state concept;

- the wide ratification of such instruments as the International Convention on the Elimination of All Forms of Racial Discrimination (1965) seems to imply the acceptance by states of new, positive obligations in the name of common moral principles.²

Difficulties over the question of human rights do not, however, always arise from ideological causes. Ploman has usefully pointed out that differences may often be taken to be of a political nature when, in fact, they depend on different legal attitudes. As he says, even within the western legal tradition, there are obvious differences between the systems based on Roman law and those based on Common law, while both differ from the Nordic law-based system. Other systems based on Islamic, Hindu or Chinese law may differ more widely still.³

In this context, it may be possible to find a parallel in a judgement of the United States Supreme Court which laid down that religious freedom involved two concepts, freedom to believe and freedom to act. It decreed that 'the first is absolute, but in the nature of things the second cannot be'.⁴ In the same way, it may be held that the individual's right to communicate is absolute but the freedom to exercise it is not.

The third possibility of arriving at a common view derives from a view put forward by Cocca. For him, the right to communicate, 'corresponds to man, it is a right of persons. Starting from man, it is extended to communities, but not to institutions. Man is always the subject par excellence of law. From man, the right passes on to the community and from there to humankind, its ultimate subject'.⁵

Cocca explains that humankind is today a legal concept, and has been recognized as such by states for the past fifteen years. 'Humankind', he writes, 'is above everything. . . has attained the maximum juridical level . . . in the last analysis is the person'. He sees 'a closing circle of man-society-international community-mankind'. The rights of humankind being expressed by the concept of *jus humanitatis*.

Perhaps, this idea of the ultimate locus of the right being humankind provides an answer to the dilemma. It meets the view of those who wish to locate the right in the human person rather than in society. At the same time, it does not confine it to the individual, a concept which is unacceptable to those who feel that society, as represented by the state, is the subject of all rights and that the individual has only those rights which the state gives him.

There is no doubt that the whole argument over the locus of the right to communicate is one of the most intractable sticking-points in the debate. If it can be solved, the main stumbling-block will have been removed and the task of arriving at a definition of the right and of having it acknowledged in national and international legislation will have been greatly eased.

2. Edward Ploman, 'Present international framework of the Right to Communicate', *Collected Papers*, p. 80.

3. *Op. cit.*, p. 79.

4. *Cantwell v. Connecticut*, 1940. Text in McGrath, *Church and State in American Law*, Milwaukee, 1962, pp. 270-287.

5. *Op. cit.*, p. 28.

10. From concept to action

A Unesco meeting on Communication Policies and Planning, held in 1972, put forward a definition of the flow of communication which has an important relevance to the idea of the right to communicate.

'An understanding of modern communication must go beyond the *outdated vertical model*, the one-way concept of flow. It is just as important to be aware of *what people wish to do with the media* as to ask what the media may do to the people. Communication flow should be seen as a multilateral process, in which not only one can communicate to many, but also one to one, and many to one or many to many.'¹

Following this line of thought, the emphasis in the right to communicate will be seen to be in encouraging and making possible such a horizontal flow of communication. The communication process will no longer be considered solely in terms of the downward and outward flow from an élite to the mass; from the centre to the periphery; from the communication-rich to the communication-poor. It will be seen as the right of the individual to communicate with as many of his fellow-humans as his own ability and the availability of resources allows. From this right of the individual stems the right of communities, societies and nations to communicate among each other.

A second conclusion from the Unesco statement is that it is not simply the content of communication which is important. The actual process of communication and the use which the communicators make of it are also important. This is an aspect of communication which has been little researched. Yet it is of major significance to each human being, for whom communication is a fundamental need.

It is not sufficient, therefore, to acknowledge the existence of a human right to communicate. If the need to communicate is fundamental to human existence, that is, existence as a human being capable of achieving his or her full potential, then the right should be capable of being exercised as far as that is possible within the limitations and restrictions involved in any concrete situation. In turn this imposes on the person, community, nation or international forum acknowledging the existence of the right to communicate an obligation to secure the conditions in which it can be exercised. As de Sola Pool says:

'A right is a claim on others. It imposes an obligation on them to do something or to yield some resources.'²

At the national level, therefore, recognition of a right to communicate will impose on the state the obligation of creating the conditions under which the practical freedoms and entitlements which derive from the right itself can be implemented. This argument is advanced by Rao and

Kwan Siu, who, in calling for wider parameters of communication rights accept that freedom of speech and of the press are no longer adequate concepts. They go on:

'Now the means to acquire these freedoms are just as important. Formerly, the implied condition was for the state to recognize these freedoms by not enforcing any laws that would infringe them. But now, that is not seen as being sufficient; the state is called upon not only to safeguard them but also to find ways in which these freedoms can be practised with greater equity.'³

The question arises: What is the state to do? The answer is two-fold. The first step is for every state to recognize the existence and the validity of the right to communicate concept.

By this is meant that the state should recognize that communication is a fundamental human *need*, necessary to the individual for development to his or her full potential as a human being, and, therefore, a fundamental human *right*.

The second stage is for the state to embody in national law the freedoms embodied in the right to communicate—freedom of opinion, of expression and of information—and to recognize in practice the entitlements which in turn flow from these freedoms—free speech, freedom of the press, independence of broadcasting, 'open government'.

This approach has advantages and disadvantages. It would establish the right to communicate *simpliciter* as a basic human right, inviolable in any circumstances, without loading the concept with a whole litany of dependent freedoms and entitlements which, in practice, could be validly restricted or limited according to the circumstances of time or place. The right to communicate would thus be treated in the same manner as the right to life, the most basic of all human rights: it would be simply stated and not invested with statements of the freedoms and entitlements involved in the right nor with the legitimate restrictions and limitations on such freedoms and entitlements.

This approach would avoid the difficulties referred to in Chapter 7, where it is argued that it would be counter-productive to attempt to include in the definition of the right to communicate the full range of concerns and responsibilities some protagonists of the right wish to have incorporated.

1. 'Report of the Meeting of Experts on Communication Policies and Planning', COM/MD/24 (Unesco, 1972).
2. Ithiel de Sola Pool, 'Scarcity, Abundance and the Right to Communicate', *Evolving Perspectives*, p. 175.
3. Y.V. Lakshmana Rao and Lui-Tan Kwan Siu, 'Is Asia alone in its ambivalence?', *Evolving Perspectives*, p. 66.

There is, however, one serious drawback in the approach suggested here. It is that a definition restricted to a simple statement of the right to communicate would be too vague and generalized to be of any practical value. Even if it were accepted and adopted by every state, it could remain a generalized declaration which would not be binding on states in any practical way.

This would be a fair criticism. The only middle course between a pious generality and a definition so overloaded and qualified that it would be equally useless would be a definition in two parts. The first would bind a state to

recognize the overall right to communicate; the second would oblige the state to guarantee the exercise of the right in practice by means of the freedoms and entitlements mentioned earlier though these freedoms and entitlements might have to be curtailed or suspended on occasion for valid reasons.

Such a two-part approach would provide the necessary distinction between the primary and secondary aspects of the right to communicate, guaranteeing the primary right while providing for justified limitations on the freedoms and entitlements which are derived from the basic right.

11. The international forum

Once it had been enshrined in national legislation as a basic human right, the right to communicate might more easily be proposed as a subject for international law. In this context, a useful approach has been outlined by Le Duc. He remarks that the right to communicate is without any significant body of universally agreed legal principles. Each nation has resolved its own particular free speech controversies without regard for philosophical symmetry or general comprehensiveness. There is, therefore, no fully developed set of national communication law concepts to serve as a basis for creating an international law. He concludes that

'If a body of universally understood legal doctrine is ever to emerge in the field of international communications, scholars must begin by developing a framework to transform each of these implicit national communication values into a series of explicit jurisprudential principles. Because most major conflicts in international law seem to have involved mass media rather than personal communication rights, this type of framework might focus initially only upon those channels of communication that carry public rather than private messages.'¹

There are, however, at least three major obstacles to the attempts to enshrine the right to communicate in international law. The first is the division of the world into antagonistic camps. As Blumenwitz argues:

'Because the community of nations is split in several directions—East and West, North and South—international law today is no longer in any real position to make coherent, firm or basically undisputed pronouncements in the highly political realms. And freedom of information, as part of the wider area of media policies, is today also one of the highly political realms in international relations. In an age in which the use of force is almost universally banned, the media have become tools in a battle of ideas that is today the only means of trying to alter the status quo legitimately.'²

Secondly, there is at present no overall international forum for challenging national laws on behalf of the individual. The International Court of Justice at The Hague adjudicates between states; the European Court of Justice in Luxembourg can and does hear cases brought by an individual against the state only because the EEC nations have ratified at national level laws that permit of such recourse.

Le Duc has pointed out the limitations of international law in regard to the individual:

'Since the time of Hugo Grotius, *De Jure Belli ac Pacis* (1625), international law experts have been in general agreement that nations and not individuals were the

proper subjects of international law. Thus, to declare that individuals had certain inherent rights as citizens of their own nation in terms of international law was a revolutionary idea, for as William W. Bishop, Jr., points out in *International Law* (New York: Prentice-Hall, 1953) p. 209, "A state's treatment of its own nationals would not at the present time ordinarily involve any question of international law and the individual would have no enforceable rights under international law arising from such treatment." The United Nations sought to sidestep this problem by making its 'human rights declarations' *treaties*, and thus enforceable at international law when subscribed to by each nation. The theory may be sound, but nations in general have been extremely reluctant to ratify treaties dictating any aspect of their domestic policies.'³

Thirdly, the right to communicate cannot at this stage be considered a generally accepted principle. There is an impressive list of international instruments and agreements in the field of social communications, as noted below, but it would not be possible to deduce from this that there is a sufficiently wide recognition of the right to communicate as to claim it a principle of international law.

The list of international agreements in the communications area was collated by the delegations of Argentina, Austria, Belgium, Federal Republic of Germany, Indonesia and Italy on the occasion of the Fifth Session of the United Nations Working Group on Direct Broadcast Satellites (Geneva, 1974). It was divided into four chapters as follows:⁴

1. United Nations

United Nations Charter (1945)

Outer Space Treaty (1967)

Declaration of Principles of International Law concerning

Friendly Relations and Co-operation among States (1970)

Universal Declaration of Human Rights (1948)

International Covenant on Civil and Political Rights (1966)

Declaration on the Strengthening of International Security (1970)

Convention on the Right of Correction (1952)

UNGA Resolutions 119 (II), 381 (V), 424 (V), 841 (IX), 1236 (XII), 1301 (XIII), 1721 D (XVI), 1815 (XVII), 1962 (XVIII), 2222 (XXII), and 3182 (XXVIII)

Economic and Social Council Resolution 756 (XXIX) also is relevant.

1. Op. cit., p. 160.

2. Dieter Blumenwitz, 'Freedom of Information in the Light of International Law', in *Freedom of Information—a human right*. Hanns-Seidel-Stiftung, Munich 1978, p. 13.

3. Ibid., footnote 2, p. 167.

4. Ibid., pp. 25-6.

2. International Telecommunications Union

International Telecommunication Conventions (Montreux, 1965, and Malaga-Torremolinos, 1973)

Radio Regulations

Final Acts of the World Administrative Conference on Space Communications (1971)

Recommendation on the Unrestricted Transmission of News (Montreux, 1965).

3. Unesco

Resolution 7.22 on the Free Flow of Information (III, Beirut, 1948)

Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education, and Greater Cultural Exchange (1972)

4. Other documents (of a regional scope)

Declaration of Human Rights (Bogotá, 1948) of a continental reach and which anticipated the Universal Declaration

European Convention on Human Rights (1950)

European Agreement for the Protection of Television Broadcast (Strasbourg, 1960, amended in 1965).

For the meeting of the International Broadcast Institute at Cologne (1975), Edward W. Ploman produced a list of relevant international instruments and texts, some of which are included below to supplement the foregoing enumeration:

Constitution of Unesco (1945)

General Assembly Resolution 59 (I) (1946)

International Convention on the Elimination of All Forms of Racial Discrimination (1965)

International Covenant on Economic, Social and Cultural Rights (1966)

The Proclamation of Teheran (1968).

According to Cocca:

all the above instruments and documents tend to create the universal conscience necessary to convert freedom of information and the free flow of social communication into a principle of international law.⁵

Others disagree with this attitude. They favour including the right to communicate, as well as other human rights, in international agreements since they are then outside a state's *domaine réservé* and breaches of them become amenable to international criticism and pressure. As examples of the effectiveness of such action, they point to international reaction against and condemnation of *apartheid* in South Africa.

Two other practical reasons are put forward for not promulgating the right. One is that the imbalance in communication technology in the world makes it impossible to ensure the right to communicate for all peoples. Proclaiming the right might, in this view, result in a widening of the technological gap.

The second such objection is that the educational standards of many hundreds of millions of people throughout the world are so low that they could not benefit from the right to communicate.

These other arguments are also countered by those who feel the right to communicate should be defined and promulgated. They hold that the technological and educational gaps between nations can be closed in time and that international acceptance of the right to communicate, with its stress on sharing international communication resources to meet national needs, will accelerate the process.

However, the gap between the educational and technological resources of different countries underlines the problem of what is called 'cultural imperialism'. Certain countries and organizations will seek to use communication technology, communication systems and communication freedoms for political and/or commercial advantage. The result may be that the ideological and cultural values of the communications-rich nations are imposed on those of the less well-endowed countries.

A delicate line has to be drawn between legitimate restrictions of the inward flow of foreign information and entertainment material in the interests of protecting the receiving nation and straight censorship for political or ideological reasons.

Here, the concept of the right to communicate can be adduced to support both sides of the dilemma. It can be cited as justification for opposing any obstacle to the flow of material from outside. At the same time, the aspect of the right to communicate which is represented by the right to choose what communication one wishes to receive provides justification for refusing certain forms of communication.

With the explosion in communications—particularly transnational data traffic and the imminent introduction of direct broadcast satellites—some nations may for ideological reasons, try to restrict the flow, to legislate against 'overspill', to devise new 'jamming' systems and generally attempt, Canute-like, to stem advances in technology. All historical precedents suggest that such action would be of limited value for only a short time before the technology was developed to circumvent or defeat it.

Another—and greater—possibility is that, in their legitimate opposition to the inflow of objectionable or unwanted material from outside, these nations will oppose the concept of the right to communicate itself. They will see it as a challenge not only to their internal rights vis-à-vis their own citizens but to their rights to protect their societies against unwarranted cultural and political invasion from outside.

There is little that can be done to prevent opposition to the concept of the right to communicate on such grounds, nor is there any guarantee that those who agree in principle with the right will accord it in practice.

The most to be hoped for is that the right will be adopted in national legislation and accorded in practice by a sufficient number of nations to give it the moral force of an international agreement, so that world public opinion will gradually bring into line those nations which refuse to adopt the principle or default on its implementation.

5. Ibid. p. 26.

12. Rights and resources

Some participants in the debate on the right to communicate, while supporting the philosophical concept, ask what point there is in proclaiming a universal right if many, perhaps most, of the world's four billion people lack the resources, the freedom or the ability to take advantage of it.

Pomorski is one of those who, while agreeing that every individual has a right to communicate, points out that the right can now be enjoyed only by those who are economically powerful.¹

Others, like Le Duc, feel that the right to communicate will always remain an abstract expression of natural law or is simply too broad in itself to be analysed.²

There are, however, some writers on the subject who hold that if the practice or implementation of the right cannot be guaranteed, there is no purpose in continuing the attempt to define it philosophically. They counsel instead concentration on changing the structures of society to permit implementation of the right to communicate in practice. Beltrán and Fox de Cardona say, for instance, that

'... little would be gained by elaborating and refining the definitions of freedoms and rights to communicate if the edifice of society remains hardly conducive to their true and widespread implementation.'³

Others would see in this a counsel of despair, reflecting the brand of societal determinism expressed by Campeanu in his conclusion that

'it is not the way people communicate that determines the social structures; it is the social structures that determine the way people communicate.'⁴

They recognize that there will always be obstacles—legal, economic, political and ideological—to the full implementation of the right to communicate, whether that right is seen to reside in individuals or society or both. They feel, however, that agreement on a definition of the right to communicate would on itself be an element in the gradual changing of national and international society along the right lines. Whether society should first change before the right is defined or whether the definition would itself help change society is a bit like the argument over whether the hen or the egg came first.

As Ithiel de Sola Pool writes:

'There is no way in which all demands for access to the major media can be met. The cumulative claims on other individuals represented by each individual's desire to communicate far exceed the resources available. People are bound to feel frustrated that their freedom to communicate cannot be translated into a right to the particular platform they seek. And yet there is much that social policy can do to improve and extend the

opportunities of people to communicate. That is the legitimate goal of those who address themselves to the issue of the right to communicate.'⁵

Nor need scarcity of communication resources or their unequal distribution be an insuperable obstacle to the pursuit of the objective. In the first place, resources are not as limited as they have been. Modern technology is increasing the availability of communication at a stupendous rate and while there is still a vast and increasingly unacceptable imbalance in the distribution of those resources there is nothing, as de Sola Pool says, to prevent the creation of a society in which everyone has more access to means of communication than any but the top 2 or 3 per cent have today.⁶

Secondly, if the definition of the right to communicate must await an even distribution of communications resources throughout the world, it will wait a long time. It is said that the perfect is the enemy of the good. It is wrong to dismiss a good solution because it does not provide the perfect answer to the problem. In this imperfect world, there is no perfect solution.

A more balanced view is taken by Ali Shummo, a representative of the communication-poor part of the world. For him, the right to communicate should not be partial, but should be absolute, giving everybody the same opportunity to practise the right. Yet, he accepts that:

'We cannot, and we should not, use this as a pretext to demand the halt of the march of others until we are equally able to avail ourselves of the technological means. But we do expect the scholars in developed countries to consider this question and try to direct their societies to recognize the need for the developing countries to improve their systems of communication. . . This will remove the shadow of partiality and prejudice from the sacred right to communicate and satisfy those who are worried about the inequality between their right to communicate and that of their fellows in the developed world.'⁷

1. Loc. cit., p. 46.

2. Ibid., p. 160.

3. Ibid., p. 131.

4. Pavel Campeanu, 'A sociologist's view of the Right to Communicate', *Evolving Perspectives*, p. 237.

5. Ibid., p. 176.

6. Ibid., p. 177.

7. Ali Mohammad Shummo, 'The Right to Communicate as seen in developing countries', *Evolving Perspectives*, p. 255.

Throughout their writing on the subject, Harms and Richstad have stressed the close relationship between communication rights, resources, policy and planning.

'We are learning that communication rights are 'dry' rights without adequate and equitable communication resource development and distribution.'⁸

In working towards a definition of the right to communicate, this point can play an important part. It may help to convince those countries which see the definition of the right as a threat to their cultural or political sovereignty that it can also generate a new drive to organize the world's communications resources in a more equitable way and to channel resources to where they are most needed. Fisher, however, is uncomfortable with the idea of incorporating into a definition of the right to communicate what he describes as

'a humanitarian recommendation about the sharing of the human, economic and technological resources necessary to establish the right to communicate as a realizable objective throughout the world.'⁹

For him, the right of communities and societies to communication resources is not of the same basic importance as the individual's right to communicate. He concludes:

'Logically, such a recommendation should have been expressed, if philosophically tenable, as an entitlement of societies, deriving from the individual's right to communicate. Or, if this does not stand up to philosophical analysis, the concern should have been expressed in a context other than a statement about a human right.'¹⁰

A compromise is required which would avoid including in the definition of the right to communicate itself recommendations concerning the more equitable sharing of communications resources while, at the same time, stressing the obligation on the communications-rich countries actively to contribute to this end.

8. L.S. Harms and Jim Richstad, 'Right to Communicate: Human rights, major communication issues, communication policies and planning', *Collected Papers*, p. 107.

9. Desmond Fisher, 'The Right to Communicate: A philosophical framework for the debate', *Evolving Perspectives*, p. 89.

10. *Ibid.*, p. 99.

13. The implications

The right to communicate, as the present treatment emphasizes, is a philosophical and ethical concept. This is the rationale and justification for the efforts to have it accepted as a basic human right and ratified as such nationally and internationally.

At the same time, such ratification would obviously have important practical consequences, with socio-cultural, economic, legal, political and other implications for society. It is precisely the concern about these implications—rather than the philosophical and ethical aspects—that has obstructed and delayed agreement on the concept itself.

Such concern is understandable. The right to communicate embraces a much wider spectrum of communication freedoms than earlier formulations which failed to win general support because of uncertainty about their practical consequences. Inevitably, the new formulation will encounter even greater opposition.

The opposition comes from two main ideological standpoints. The concept of the right to communicate is distrusted by the 'western' nations which see it as part of the proposals relating to new world information and communication orders, about which they are highly suspicious. They fear developments which could be used as a justification for imposing restrictions on western news agencies, on the marketing of western films and television programmes in less developed countries and on exploitation of data transmission and other new technologies.

In some socialist and Third World countries, opposition to the right derives from the fear that it could be used to justify the continuation of the existing massive imbalance in information flows and the unrestricted importation of western technology and information and, consequently, western values.

There is no easy way out of the impasse and the apparently irreconcilable attitudes adopted so far in the debate on the philosophical aspects of the right to communicate reflect the deep disagreements about the practical implications. And since the politicians and other leaders of society are concerned more with the practical consequences rather than with the philosophical concept, the fact that comparatively little attention has been paid to the former aspects is a major obstacle to getting general agreement on the right.

It is true, as has been noted earlier,¹ that several writers have drawn up lists of what they consider to be the constituents of a right to communicate, thus indicating in broad terms the likely practical implications. However, the lists largely consist of enumerations of the authors' main concerns in the communications field. One writer will conclude that the right necessitates giving priority to rural radio over urban television; another that it involves the

right to live in peace; another that it includes an entitlement to development aid. All these matters are important; the difficulty lies in considering them as integral parts of the right to communicate.

The right to communicate cannot be expanded indefinitely to cover whatever unrelated though desirable objectives that can be hitched on to it. The urgent need is to find a middle way between conflicting interests and to determine the practical implications of the right; otherwise the concept will remain an embryonic philosophical construct.

Fortunately, there are some indications of progress. The most hopeful is that the right to communicate has now been accepted, in the forward Unesco programme and, increasingly, in academic and communications research circles, as a concept meriting further study. Secondly, even if it were possible to avert or postpone indefinitely further debate on the philosophical concept of the right to communicate, the advance of the new communications technology is imposing its own urgencies, forcing into the open consideration of the practical implications involved.

This is because, in the modern world, agreement on and implementation of national communication policies are becoming more and more essential not just for economic progress but even for a nation's survival as a cultural and political entity.

It does not matter in the present context what national communications policy may be decided; it may even be a decision to refuse completely to have anything to do with the new technology. The point is that the nature of that technology is such that any decision concerning it will, in some degree, affect a particular society's communication freedoms.

In some societies, the new technology can help greatly in ensuring greater communication freedoms for all, in facilitating access and inter-active communication, in increasing the opportunities for human development through the exchange of information and opinion. In others, the adoption of some of the new technology may have the opposite effect, for example, by reducing the amount of resources available for other older forms of communication, such as the telephone or newspapers, which might be more appropriate for a particular society.

While there has been insufficient examination of the practical consequences of implementing the right to communicate, the literature on the subject suggests the following areas for consideration.

1. Cf. Chapter 6.

1. Socio-cultural

Communication is intimately linked with each society's culture, both as a creative force and as an agent of change. The rapid development of new communications technology makes massive cultural changes both possible and probable. Already the effects are seen in the vast strides made in education, in the almost instantaneous exchange of news and in the immediacy with which peoples can witness and, in a sense, participate in major events like space missions, international crises and ceremonial occasions.

In many countries, the spread of mass communications systems and their homogenizing effect has weakened local and regional cultures while creating a stronger national consciousness. The same process, with its advantages and disadvantages, is beginning to manifest itself on an international scale with the domination on world film and television screens of news and entertainment material from a limited range of sources.

In considering the right to communicate in the light of the new technological developments, there is a danger that the technology itself will be regarded as an integral package to be accepted without discrimination or rejected without distinction. It is obvious that the technology should be adapted to meet the needs of society rather than that society should have to conform to the demands of technology.

The need to protect a society's values against 'cultural imperialism' is apparent, though it is easier to state the problem than to solve it. The right to communicate does not mean that a particular country must accept the swamping of its own culture by imported values; in such a case, the right to communicate means a society's right to communicate in terms of its own needs and to protect itself against imported value-systems which would undermine its own cultural forms of expression.

Certainly the line between such legitimate protection and censorship is difficult to draw as Mr Amadou-Mahtar M'Bow, Director-General of Unesco, stressed in an address to the Intergovernmental Conference on Communications Policies in Africa, held in Yaoundé, Cameroon, in July 1980. Drawing attention to the way in which developments in communications can lead to the weakening of national and local forms of expression and of the need to marry the new and old technologies, he said:

'... it is impossible to overstate the implications, for individuals and for societies, of the invasion of uniform behaviour patterns that is undermining interpersonal communication and threatening the whole of mankind with an irreparable loss of cultural substance. Admittedly there can be no question of forgoing the advantages of contemporary technology, but the necessary links must be forged between the living forms of interpersonal and community communication and the mass media. Such a symbiosis, for which the need is increasingly recognized, can be successful only where the traditional forms of communication have retained their meaning and vigour.'²

Mr M'Bow was referring specifically to the socio-cultural consequences of the impact of mass media values on the interpersonal communication systems which are still the main forms of communication in the world. His point, however, is relevant to the whole interface between the old and new communication technologies. The task for each society is how to balance the adjustment to the new forms while protecting the good values in the old.

As the Irish poet Ferguson put it:

'... the Man aspires

To link his present with his Country's past,
And live anew in knowledge of his sires.'³

The problem is relevant not only to countries which, in the economic sense, are still in a stage of development. It applies equally to some countries, like Ireland and Canada, which, from the economic point of view, are comparatively high up in the international league tables.

Harold Innis, the Canadian writer, has pointed out how changes in communications technology can affect the foundation of a nation's culture and the Canadian Minister of Communications declared recently that:

'As a nation which is still developing, we are concerned that our national sovereignty and identity not be eroded as a result of thoughtless application of technologies without regard for the economic and social fabric of the country.'⁴

The possible social and cultural implications of implementation of the right to communicate are, as can be seen, among the strongest determinants in deciding any particular society's attitude towards the right itself.

2. Economic

A major problem identified by many writers on the right to communicate is that it is likely to remain a philosophical idea incapable of implementation because of the economic incapacity of many societies to put it into practice.⁵ Their concern is not simply with the new and costly technologies now being developed but also with the overall structures of modern telecommunications.

For instance, CETTEM—Centro de Telecomunicaciones para el Tercer Mundo (Third World Telecommunications Centre)—has identified five economic obstacles to the use of telecommunications for the social, economic and cultural growth of the Third World. It describes the present structure and systems as unjust, non-egalitarian, non-participatory, ineffective and non-pluralistic:

'Unjust, because the telecommunications structure appears to be a privileged asset of a few countries rather than a birthright of the majority.

Non-egalitarian, because the quantity and flow of content via telecommunications systems is heavily biased in favour of a few countries. Third World countries are overwhelmingly receivers rather than generators of content.

Non-participatory, because Third World countries and users have virtually no control over the planning, administration and programming of telecommunications systems. Investment decisions regarding the type of telecommunications technologies ignore the basic necessities and conditions of the small countries and are determined by the typically large user in the rich countries.

2. Amadou-Mahtar M'Bow: DG/80/18 Unesco, Paris, 25 August 1980, p. 3.

3. Samuel Ferguson, 'Measgedra', The Poems of Sir William Ferguson, Dublin 1880, p. 42.

4. Francis Fox, Canadian Minister of Communications, 'Communications and the North-South Dialogue: A Vital Link'; address to IIC Annual Conference, Ottawa, September 1980, p. 3.

5. Prof. L.S. Harms of the University of Hawaii, one of the most prolific writers on the right to communicate, has referred to communication freedoms without adequate resources as 'dry rights'. See p.[73] *supra*.

Ineffective, because available technologies usually do not incorporate feedback mechanisms. Hence, without dialogue, the quality of educational, informational and cultural content diminishes.

Non-pluralistic, because dependence on a few technologies limits the quantity and number of informational, educational and cultural options, apart from any political or ideological restrictions that may exist.⁶

CETTEM's views are supported by Anthony Smith, the internationally-known writer on communication matters, who believes there is a

'growing realization that information structures are in a sense pre-determinants of the viability of nations.'⁷

As Smith says:

'The new insistence on the part of the Third World countries that some kind of restructuring must take place in the machinery of international communication is one part of their struggle to gain control of the processes of their economies. The sole achievement of many such societies hitherto has been political independence; the failure of the economic progress which was to have followed can be seen in terms of their own failure to follow through from independence to indigenous control of information . . . Today it is more widely held that the machinery of information, if it is controlled from outside, merely confirms the receiving country in a state of perhaps more hopeless dependence than before.'⁸

The need for urgent action to redress this growing dependence is now becoming more clearly perceived. The final report of the MacBride Commission, in recommending the progressive implementation of national and international measures that will foster the setting up of a new world information and communication order, recommended that international co-operation for the development of communications should be given equal priority with and within other sectors (e.g. health, agriculture, industry, science, education, etc.) as information is a basic resource for individual and collective advancement and for all-round development.⁹

In this context, the emphasis on the right to communicate as a philosophical and ethical concept provides the foundation for recommendations concerning the transfer of resources from the communication-rich nations to the communication-poor ones. As has been pointed out earlier, a right implies a corresponding responsibility on the part of others to provide the conditions necessary for its exercise; a freedom implies only that nothing be done to impede its exercise.

One obvious application of the right in present conditions relates to the claim from developing countries for a more equitable sharing out of finite natural resources, such as the electro-magnetic spectrum and the geostationary orbit, as recommended in the MacBride Commission Report.¹⁰

But the implications of the right to communicate are not necessarily nor even primarily concerned with the mass media. Since the right is universal, it is applicable to all societies in all stages of development, including those where interpersonal communication or communication by means of less modern technology may be all that is economically possible. In these cases, it involves the recognition by a society of its responsibility to ensure for those composing it the right to communicate with whatever resources are available in the circumstances of the time.

From this, it follows that the chief implications of the right to communicate in relation to the new technology lie not so much in the availability and proliferation of the new systems and devices themselves as in the new communications services and human relationships they make possible. The exponential increase in communication channels, the by-passing of obsolescent systems such as telegraphic links in countries which will advance from primitive to advanced systems without going through the intermediary stages, the introduction of packet-switching and digitalization, the marriage of computer systems and communications, the new ways of exchanging information (e.g. interactive videotex, teletext, cable, cassettes, direct broadcast satellites)—all these expand the capacity for communication, increase participation, access and two-way exchange and so offer new possibilities for human advancement and information exchange within and between nations.

Faced with these developments, policy-makers will rightly ask what they would cost. The answer must be that not all developments in communications technology are suitable for all societies and the application of any new system or systems has to be geared to a particular country's needs and capacity. The right to communicate does not require the introduction of the new technology nor does it guarantee the resources for it. The growth of the new technology emphasizes the need for providing the right, not the other way round.

3. Legal

In the legal sphere, at national and international levels, the implications of the right to communicate are obvious. A right is a legal as well as a philosophical and ethical concept, since it is a recognition of both an individual's freedom to act and of society's positive responsibility to guarantee the exercise of such freedom. This immediately raises the question of the extent to which a particular society or political system recognizes the rights of the individual *qua* individual rather than as part of the collective. The problems involved were discussed in Chapters 8 and 9.

In alluding to the 'fundamental difference of opinion as to what part the state should play in communication activities', the MacBride Commission report provides a useful criterion.

'The legal framework should, in principle, safeguard and encourage pluralism, it should enable any individual to obtain information and opinion from various sources and to select freely between them.'¹¹

The same report identifies some barriers to freedom of information which the right to communicate would clearly rule out. It lists:

'physical violence and intimidation; repressive legislation; censorship; blacklisting of journalists; banning of books; monopolies established by political action; bureaucratic obstructions; judicial obstructions such as closed hearings and contempt of court rules; parliamentary privileges; and restrictive professional practices.'¹²

6. CETTEM, San José, Costa Rica, Año I, No. 1. 1980, p. 1.

7. Anthony Smith, 'The Geopolitics of Information', London, 1980, p. 174.

8. *Ibid.*, p. 27.

9. Cf. 'Many Voices, One World', Unesco, Paris 1980. Part V, Section A.V, paras. 66, 67, p. 268.

10. *Ibid.*, p. 258.

11. *Ibid.*, p. 208.

12. *Ibid.*, p. 138.

Many national laws relating to communication were drawn up at a time when the technology was very different from what it is developing into today. The mail, telegraphic and telephonic systems were government monopolies in most countries. When broadcasting was developed, it inevitably followed the same general pattern and it is only now that in much of western Europe the state broadcasting monopoly is being ended.

Developments such as pay-TV, cable TV, direct broadcast satellites and interactive videotex so combine inputs from state and private sources that the former ownership arrangements and hence the legal structures governing them are no longer applicable. But national communications structures and the relevant legal systems differ so much from each other that ratification of the right to communicate would involve different consequences in each.

Until it is ratified at the national level, there can be no foundation for establishing the right to communicate as a principle of international law. The problems involved are illustrated by two quotations from Soviet experts. In a comment on the MacBride Commission Final Report, Sergei Losev, himself one of the Commission members states:

'The right to communicate is too widely discussed, though this right hasn't gained any international recognition, just as it hasn't gained recognition nationally in any of the countries represented in the Commission. At the same time, the problem of developing international law in the field of information and of information exchange was not adequately dealt with.'¹³

The second Soviet comment was by Iuri Kolossov in a discussion paper for the Unesco Meeting of Experts on the Right to Communicate in Manila, Philippines, in October 1979. His conclusions were:

'1. The view that there is such a thing as "freedom of information" in relations between states finds no objective reflection in existing informational law. In the system of principles and norms regulating use of the mass media the right to inform is counterbalanced by specific obligations, which means that "freedom of information" cannot be recognized as a principle of public international law.

2. Juridically speaking, the "right to communicate" partakes of the nature of national (domestic) law, and this concept cannot therefore be used in a system of public international law.

3. In the developing law of international mass information it is more appropriate to use the concept "the right to inform".

4. The determinateness of the right to inform stems from political, social and technical factors which necessarily affect the material content of the right in question.

5. The nature and scope of "the right to inform" should be defined in the context of the progressive development and codification of the principles and norms governing international use of the mass media. The process of such codification can be regarded as equivalent, on the juridical plane, to the establishment of a "new international information order".'¹⁴

The conflict of views on the status of the right to communicate in international law makes it unlikely that agreement can soon be reached. The present situation is best summed up in the MacBride Commission Report as follows:

'The concept of the "right to communicate" has yet to receive its final form and its full content. Far from being, as some apparently maintain, an already well-established principle from which logical consequences might, here and now, be drawn, it is still at the stage of being thought through in all its implications and gradually enriched. Once its potential applications have been explored, both in Unesco and in the numerous non-governmental organizations concerned, the international community will have to decide what intrinsic value such a concept possesses. It will be required to recognize—or not—the existence of a possible new human right, one to be added to, not substituted for, those that have already been declared.'¹⁵

4. Political

It is at the political level that the socio-cultural, economic and legal implications of the right to communicate become most significant. The ideological divisions of the world into east and west, north and south, cut across all efforts to get agreement on the concept of the right, not to speak of the efforts to have it universally ratified and promulgated. Certainly, it seems at present that it will be as difficult to bridge the gulf between the western European and socialist points of view on the validity of the concept as on the wider communications issues which have been widely discussed in recent years.

At the same time, the huge advances in communication technology and the increasing interdependence which they make both possible and inevitable suggest that some way forward will be found. As national communication policies are adopted, common principles will become apparent and a gradual common approach is likely to emerge.

International arrangements as a result of the work of the World Administrative Radio Conferences (WARC) and the International Telecommunication Union will also help produce a more integrated attitude towards communication problems and opportunities.

Finally, renewed efforts to achieve a new world information and communication order will act as a forcing-house for consideration of the right to communicate.

In the words of the final paragraph in the foreword to the MacBride Commission report:

'It is essential that all men and women, in all social and cultural environments, should be given the opportunity of joining in the process of collective thinking thus initiated, for new ideas must be developed and more positive measures must be taken to shake off the prevailing inertia. With the coming of a new world communication order, each people must be able to learn from the others, while at the same time conveying to them its own understanding of its own condition and its own view of world affairs. Mankind will then have made a decisive step forward on the path to freedom, democracy and fellowship.'¹⁶

The debate on the right to communicate may be the catalyst in this process.

13. Loc. cit., p. 279.

14. Iuri Kolossov: 'The Right to Communicate in International Law'. Unesco IM/RICOM/DP/3, p. 10.

15. Ibid., p. 173.

16. Ibid., p. xv.

14. What next?

It is clear that a great deal of further examination and debate is necessary before a full evaluation of all the elements of the right to communicate is achieved and its practical implications assessed. Some of those most closely connected with the work are resigned to a long delay and D'Arcy, the father of the concept, declared from the very start that

'on this road, time itself is of secondary importance; what counts is the will to get there in the end.'¹

At the same time, it would appear that the conflict of views on some aspects of the debate, for instance, freedom of the press and the role of the state, is based on ideological and doctrinaire attitudes which no amount of further discussion will resolve.

The clear need is for a compass to guide the discussion towards some sort of conclusion or at least to the point where the major lines of the desired definition are manifest.

There is little doubt but that the concept has been fleshed out a great deal since Jean D'Arcy's original mention of it. Indeed, it may be objected that what at first seemed a relatively simple concept has, like Hamlet's native hue of resolution, been 'sick lied o'er with the pale cast of thought'. Certainly, the weight of the ethical, psychological, sociological, political and cultural accretions it has acquired since 1969 threatens to sink the right in a sea of conflicting demands and irrelevant considerations.

An analysis of the views put forward so far in the debate on the right to communicate presents the following broad conclusions:

1. The concept of a human right to communicate is a valid one. There is no disagreement on the existence of such a right: the only dissenting views are about whether defining it as such would trivialize it. There seems to be general agreement that the effort to agree on a definition of the right and to have it enshrined in national and international law should continue.
2. There is disagreement on the locus of the right. Some see it as a right pertaining to the individual and only subsequently and secondarily to society; others see society as the primary locus with the state entitled to restrict the right in the public interest. A compromise that would make the subject of the right the individual in society or humankind as a whole is favoured by some.
3. There is disagreement, too, about the content of the right. Some want the definition to include all the rights and freedoms associated with the right to communicate, the limitations and restrictions in the exercise of these freedoms and statements on the sharing of communication resources, the proper uses of communication, social purposes of information and similar matters. Others feel that the definition of the right to communicate should be a simple statement of the human right

and that other statements about communications freedoms and entitlements, about the circumstances in which they can be legitimately restricted and about a fairer sharing of communications resources, etc., should be left to a different (and lower) forum.

4. There is uncertainty about how to proceed with the studies on the concept. Some consider that no attempt should be made to foreclose the debate and that further studies should be encouraged. Others believe that the time has come to pull together the different strands of the debate and to agree on a definition.

Martelanc has noted that :

'It is not quite clear where the present endeavours are to lead—to an international declaration or convention or another form of international agreement.'²

Cocca believes it is not necessary at this time to define the right. For him, the more appropriate approach is to devise a forum for studying the question and developing the concept before an attempt is made to define it. A tentative definition at this stage would, he thinks, limit not only the field for action but also the field for reflection.³

Le Duc seems opposed to any attempt at a definition. For him :

'The right to communicate is not a single unified doctrine; rather, it is a descriptive term for a number of individual and specific communication rights.'⁴

The definition agreed upon by a relatively small number at the working group meeting in Ottawa in September 1980 may, however, gain general acceptance. As mentioned earlier, the formulation decided on was:

'Everyone has a right to communicate. Communication is a fundamental social process which enables individuals and communities to exchange information and opinions. It is a basic human need and the foundation of all social organization. The right to communicate belongs to individuals and the communities which they compose.'⁵

At least, this suggested definition provides a fresh starting-point for another formal attempt to secure general agreement on a formulation which can be submitted to Unesco and other international bodies for consideration and possible ratification.

1. Jean D'Arcy, *EBU Review* 118 (1969) pp. 14-18.

2. Tomo Martelanc. Foreword to *Collected Papers*, p. ix.

3. *Ibid.*, *passim*.

4. *Ibid.*, p. 165.

5. See p. [27] *supra*.

Before this stage is reached, the questions which must be answered are:

- (i) can it be agreed that the concept of a human right to communicate is a valid one?
- (ii) is the individual *or* society, the individual *and* society, or the individual *in* society the locus of the right? Are there separate rights involved? If so, are they all of the same order of importance?
- (iii) should there be a simple statement of the right to communicate or should a definition be sought for which will seem to include all the other aspects, legal, sociological, humanitarian, etc., of communication freedoms and responsibilities?
- (iv) should the participants in the debate be encouraged to extend their researches and observations or is it time to begin to steer the debate in the direction of an agreed definition?

These are the main areas where it might be useful to canvass the opinions of the participants in the debate in relation to their future activities. Each of these categories will obviously contain many more specific questions on detailed aspects of the problem which will arise, depending on the attitudes adopted to the main question.

The right to communicate has still to be fully defined, let alone incorporated in national and international instruments. But the idea has caught on in different countries

and among thinkers of different backgrounds and disciplines. Gradually the bare bones have begun to take flesh and the concept has now been included in many United Nations and Unesco ongoing programmes and activities.

The time scale for its promulgation, lengthening as it is, may still be, as D'Arcy foresaw, of secondary importance. But given the amount of enthusiastic activity which his concept has generated, it is legitimate to conclude that the will exists to get there in the end.

Those who are working for this objective have been encouraged by the call in the MacBride Commission Report for further study on the concept. The Report said:

'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 inform, 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.'⁶

It is to this end that the present volume has been written.

6. Loc. cit., p. 265.

Appendix A

Meeting of Experts on the Right to Communicate

(Stockholm, 8-12 May 1978)

Final Report

This final report is a slightly amended version of a draft presented by the rapporteurs to the final plenary session of the meeting. The Unesco Secretariat was requested to take note of the comments made on that draft and send a revised draft to all participants and observers. Additional comments on such a revised draft were then made by some of the participants. They also have been taken into consideration in this final report—keeping in mind that the report needed to continue to reflect as faithfully as possible the tenor of the discussions at the meeting itself.

Introduction

1. The main purpose of the expert meeting was 'to discuss some of the major issues implied in the concept of the right to communicate . . . and to further clarify and define this relatively new concept, especially as it may be applied at the levels of the individual, the community and the nation.'

2. Participants were specialists in various aspects of communication, most of whom had participated in earlier discussions on—and written about—the concept of the right to communicate. They, together with observers, were drawn from various countries of the world and from non-governmental organizations. All the participants were invited in their personal capacities.

3. The meeting was opened by Mr Erland Bergman, Secretary-General of the Swedish National Commission for Unesco, who welcomed the participants and observers. Mr Lakshmana Rao, Project Officer from the Unesco Secretariat in Paris, indicated in his opening remarks that this meeting was the first event in a proposed six-year programme. Unesco's purpose, he said, was to encourage thinking about and understanding of that concept, to examine areas of agreement and areas of disagreement and, in general, to advance the work in the field a step or two. In addition to expert meetings, Unesco's programme as authorized by the General Conference at its nineteenth session (1976) included several research studies in depth to probe key aspects of the concept. Publication of papers and discussions of meetings and the findings from research was also envisaged. He also thanked the Swedish National Commission for Unesco for their co-operation in hosting the meeting and the representatives of the international non-governmental organizations for their interest and involvement in as well as support to Unesco's activities.

4. The meeting elected Mr Bengt Gustafsson (Sweden) as Chairman and Mr Ali Shummo (Sudan) as Vice-Chairman. Mr L.S. Harms (U.S.A.) and Mr Tomo Martelanc (Yugoslavia) were chosen to act as Co-rapporteurs. The Chairmen of the three working groups into which the meeting divided itself on the third day were: Messrs. G. Anim (Ghana), A.A. Moemeka (Nigeria) and I. Kolossov (USSR). The Rapporteurs were Messrs. A.A. Cocca (Argentina), D. Fisher (Ireland) and S. Siagian (Indonesia).

5. The meeting had before it a working paper covering the main items on the agenda and a number of background documents written by several of the participants including one submitted on behalf of the Swedish National Commission. The main working paper, submitted by Unesco, had drawn considerably from two anthologies on contemporary writings on the right to communicate edited by Mr Stan Harms and Mr Jim Richstad. A list of relevant Unesco and other documents which were available to the participants at the meeting as well as those referred to in the discussions is attached.

6. The discussions by and large followed the agenda as drawn up by the Unesco Secretariat. Following the presentation of the working paper and a general discussion of the present understanding of the concept, the participants went on to examine the concept in some detail as related specifically to the individual, the community and special interest groups and finally, the nation. Earlier, it was explained to the participants that Unesco's intention was to hold a later meeting of experts which was to discuss almost exclusively the international aspects of the concept. However, as will be clear later on in this report, the meeting found itself unable entirely to draw clear distinctions between the levels at which the right to communicate could be discussed and applied. Moreover, the participants also found themselves unable to leave the international aspects out of the considerations of this meeting and to put such considerations off for a later meeting. The Unesco representative assured them that this might in fact prove to be an advantage because their discussions might provide the bases for an agenda for the next meeting programmed by Unesco.

The concept of the right to communicate

7. At the end of the general discussion on the concept of the right to communicate and the present state of understanding of the concept, three distinct attitudes seemed to emerge:

- (a) the view that the right to communicate is a valid philosophical concept which can and should form the basis of a new definition of a human right;

- (b) the view that communication is so integral a part of the human condition that it is philosophically unnecessary and perhaps even wrong to describe it as a human right;
- (c) the view that a long, drawn-out philosophical debate on whether or not the right to communicate should be defined as a human right was inadvisable for practical and/or political reasons and that efforts should be concentrated on securing acceptance and implementation of certain key aspects of the communication process, especially 'access' and 'participation'.

8. All participants were generally agreed, however, that the discussion had identified a new dimension in communication policy—the need to take note of an emerging new communication order in which access and participation are key elements which should be implemented as widely as possible.

9. There seemed to be general agreement that the right to communicate is not an established legal principle but an evolving concept, and that there is not so far a consensus on what the outcome of that evolution might or ought to be. Many different views were expressed in this regard.

10. One view was that the need to know and to inform, the need to exchange ideas and to give one's opinion and the need to safeguard the enhancing aspects of one's culture are all an indispensable part of life. Unless, we know, understand and are convinced of the need to act, we cannot progress either physically or mentally. And unless the individual progresses, the nation cannot. Progress and development are therefore the justification of everyone's right to communicate.

11. One participant said that in Africa the right to communicate was viewed not as a right for its own sake, but as a right arising out of the need to foster the physical and mental development of the individual, encourage intelligent co-existing among individuals and among communities and to advance national development.

12. Another view was that it may be unrealistic to expect unanimity on a common understanding of the term . . . and that 'we may have to resign ourselves to accept the fact that differences of opinion will remain with us in the future, acknowledging at the same time, the need for the debate to continue, until—at least—a general agreement is reached on the fundamental necessity for people to take a greater part in communication activities in their countries'. The right to communicate requires not only constitutional guarantees, like all the other human rights, but a basic change in present communication policies and outlook.

13. A participant remarked that he did not think that the 'desperate seeking for a common ground' was very fruitful at this stage, because there was need first of all to clarify the different perspectives which were related to the issues inherent in the right to communicate—particularly, from different socio-economic and political points of view. Thereafter, it might be possible to see whether a common ground was indeed emerging and what could be done with such a consensus.

14. Thus, the concept of the right to communicate was generally seen by the participants as including a number of components. Among these were the right to participate, the right to inform, the right to receive information, the right to access to the resources required for communication, etc. For many participants, one or two of these seemed to be of the greatest importance, as, for example, information at the village level. The participant's own cultural background, professional moulds, practical experiences, etc., seemed to

have an impact on the preferences and the priorities which they allotted to the various components of the concept.

15. One of the participants seemed to summarize this by saying that it seemed obvious that the notion of the right to communicate embraced a number of different rights at different levels and in various fields of communication. It would therefore be recommendable as a possible future step to enumerate these rights, to elaborate them and to evaluate them so as to assess as to what extent a single term such as a right to communicate could cover adequately the whole range of communication rights.

16. The right to participate was perhaps the most widely discussed of the key components. (It was also suggested that such a right could perhaps even replace the present concept of the right to communicate and be more acceptable in all societies and at all levels.) The necessity for active participation in the communication process was unanimously accepted by all participants and observers. There was, however, a variety of views as to the range of the right to participate. For some participants, it was a single principle that reached from the village level to the international level. For others, it seemed to have an unqualified application in certain contexts but only qualified applications in others. For instance, it was seen to apply fully to special interest groups but not in the area of international relations. One participant emphasized that participation activated the right to communicate at the community level. Another said that the right to participate was not synonymous with the right to communicate. It was only an element. One view was that 'the highest form of participation is self-management'.

17. The right to access to the resources for communication was considered to be a key component of the right to communicate and to its implementation. The right is closely linked to the availability of the resources required for interactive and participatory communication. Such a right would involve access to both the hardware and the software of communication . . . Another equally important element is accessibility to the media of communication. The element is so basic that without it there can be no effective exercise of the right to communicate.

18. Information rights were also seen to be key components of the right to communicate by most participants who also felt that these rights were most often discussed in their current formulation in Article 19 of the Universal Declaration of Human Rights. One of the participants pointed out, however, that these rights differed in their applications at various levels, especially at the national and international levels. These differences were to a certain extent reflected in law. It was pointed out that the International Covenant on Civil and Political Rights (1966) contained provisions (Articles 19 and 20) which were also pertinent in this regard. It was too early to draw any conclusions as to whether those provisions were inadequate. A number of other participants viewed information rights as being especially relevant within the current context of information imbalance at the international level.

19. One of the participants said that the debate on the right to communicate had developed from a perception that the definition of a right to information, as contained in Article 19 of the Universal Declaration of Human Rights, was now insufficient since it seemed to suggest 'a one-way right from a higher to a lower plane, from the centre to the periphery, from an institution to an individual, from a dominant culture to a weaker one, from a communications-rich nation to a communications-poor one'.

The right to communicate and social development

20. The meeting was of the opinion that in any given society, the understanding of the concept of the right to communicate is indisputably related to the specific social, economic and cultural milieu. The level of general development—economic, social and cultural—determines to a large extent the nature, extension and form of as well as the limits on the exercise of the right to communicate.

21. Some participants felt that national development and advancement of a country's resources, and its level of economic, social and cultural achievements were closely related to the formulation and implementation of the right to communicate within the national context and that the design and implementation of the right to communicate depended to a large extent, on a society's conscious and continuous endeavours towards genuine democratization of social life and system. Therefore, processes like access, participation and self-management which were organically linked with the concept of the right to communicate, had to be encouraged and promoted.

22. The formulation and execution of a clear communication policy was recognized by most participants and observers as essential to the realization of a right to communicate. In particular, the paper submitted by the Swedish National Commission for Unesco illustrated some of the policy actions suggested by a right to communicate in cultural and educational sectors generally, and more specifically in a policy of press subsidies. The non-aligned news pool was cited by another participant as an example of a result of a policy that was in harmony with the right to communicate.

Nature of human communication

23. The nature of human communication was discussed repeatedly. While there was general agreement that the communication process was inter-active and participatory, it was also agreed that information exchange was a central activity of that process. Communication was understood as including the mass media but as being a much broader concept. The relationship between the communication process and its informational content was posed as a question for study.

24. Communication, it was felt, should be viewed in this context as all-embracing, that is to say including not only the technological mass media but also all the other types of communication structures and processes in society. Furthermore, it should be borne in mind that in communication, feedback is crucial. Cognizance should be taken of the fact that despite the vast advances in communication technology, traditional and face-to-face contacts still play an important role in promoting social communication.

25. The working paper, for instance, had pointed out that the essential change that had occurred in the concept of communication was that instead of viewing it as a one-way, sender-receiver, vertical transfer of information, it was now seen as a participatory, interactive, horizontal process. Communication which was seen more as a means to inform and influence people has begun to be seen as a process of social interaction through a balanced exchange of information and experience.

26. This change contained several elements which many view as fundamental to the right to communicate. These include the interactive nature of communication, the idea

of an equitable *exchange* or *sharing* process, and the capacity, for *dialogue*, and active participation in the communication process. By its nature, interactive communication brings with it, many feel, the need for the communicators to both listen and talk. The interactive concept gives emphasis to *horizontal* rather than *vertical* communication flow. It has also been suggested that this may be seen as indicating a 'demonopolization'—and perhaps 'deprofessionalization' of the media.

27. Communication, viewed as an interactive and participatory social process, transcends the technological mass media. The mass media must be viewed as constituting only part of the multifarious structures within the social communication process. This viewpoint is particularly important in relation to the developing countries where communications technology is not only alien but where their uncritical adoption without adaptation to existing communication structures might do more harm than good.

28. The meeting recognized that besides the technological mass media, there are other traditional and society-based communication structures which do not appear to have been adequately adapted in the developing countries to meet the needs of social and economic development. It was noted that scientific research has established that the mass media do not always have a direct impact on people. The effects of the mass media are mediated by several factors including other communication structures.

29. Therefore, in developing countries where there is still a dearth of technology, more purposeful exploration should be made of the uses to which the traditional communication structures could be put to achieve an increased interactive and participatory social communication process.

30. In this regard the meeting noted examples of linkage between the traditional structures and communication technology devised in some parts of the world and recommended these for the study of other countries.

31. The participants felt that the concept of communication as an interactive, participatory process was a particularly valuable one. It provided the ethical justification for the claim that access to the communication process should be provided and for the demand that resources should be apportioned to make participation possible for countries, communities, groups and individuals who lacked the means to secure access.

32. One view expressed was that there is a wide recognition of the fact that we are still far from living communication as a dialogue and not as an imposition of one-way flow of imagery and ideas. Today, too many of the ideas circulating in society are simply deposited in the minds of the majority and deliberately elaborated as products to be consumed by an anonymous mass of consumers and not dialoguers. In this way, too many people have been denied their right to speak their word and are submitted to a violence which without being physical is as dehumanizing as physical aggression itself.

Human Rights and fundamental freedoms

33. Human communications, conceived in these broad and inclusive terms, stands in relationship to the idea of Human Rights. For most participants, the relationship between human communication and Human Rights is an obvious and compatible one.

34. Some participants held the view that communication is more than a human right as recognized currently in

international instruments or in relevant documents. Communication is an intrinsic human process which transcends the social notion of 'right' as applied to communication. The notion of 'right' is the core and the source of the freedom. Freedom is dynamic, it exists only in action and is constantly evolving by the act of free choice. Freedom cannot exist in a void.

35. The right to communicate, according to a participant, was a human right but 'is also more than that'. It embraces many fundamental freedoms not only regarding an individual but also groups and nations, and should find its appropriate expression at the international level in the relations between states, nations, societies and cultures.

36. Basically, at the centre of the right to communicate is man, but not as an abstract being but a concrete human being living in a social surrounding together with other men. Man could be free, as a social being, only as much and to the extent that all other men are free. In this sense an absolute, unlimited freedom cannot exist, because there exists mutual interdependence of people. The nature of this interdependence determines and gives a framework to the real dimension of freedom.

37. Within such considerations, therefore, there are also social determinants and limitations to the right to communicate. But in formulating and implementing the right to communicate, a society has to make all the necessary efforts to create *equal* dimensions and opportunities for *all* people. The right to communicate has to be a prominent component in the span of fundamental freedoms and has to be all-embracing.

RTC and social groups

38. One of the views expressed was that the right to communicate is essential to the individual for the development of his/her human potential and must, therefore, be considered as a human right in the same category as the right to life, the right to freedom, the right to religion, etc. A great deal of confusion, however, may be caused if it is sought to establish that the same right—or a right of the same degree of fundamental human significance—exists in a community, a group of people, a nation or a region. Such groups may and have a right to communicate. But their right is not the same—at least in degree—as that pertaining to the individual.

39. Another participant believed that one was left with the task of not just informing the people of their rights to communicate and finding channels for them, but also to educate them to practise their rights. In such a context, perhaps a closer look at the community communication structures would throw light on the problem. For example, special interest groups may prove effective vehicles for the individual to practise his right to communicate.

40. For as a member of a group bound by common opinions, beliefs and attitudes on specific issues, a person's chance of being heard is increased as he becomes aware of and is encouraged to exercise his right to communicate. Being a member of such groups, there are responsibilities and duties attached, so that a person is not just advocating his selfish interests. Therefore, special interest groups can play an influential role in the communication process if properly nurtured.

41. The meeting was in general agreement that social groups ought to have the rights of access and participation in the communication process.

42. It was also stressed that special attention with regard to the right to communicate should be paid to various minorities—national, ethnic, religious and linguistic. Within this context the right to communicate could be regarded as vested in the minority group and/or in the persons belonging to such groups.

43. National, ethnic, linguistic and religious groups have the right to existence, to respect for and promotion of their own national, cultural, linguistic and other characteristics and to the enjoyment of full equality in relation to the rest of the population, regardless of their number.

44. All these rights should be enjoyed without any discrimination as to national, ethnic or racial origin, language or religion. To a large extent the exercising of all these rights could and should be ensured through communication. Thus the right to communicate is intrinsic in securing the full rights of minorities. The exercising of these rights—human rights and fundamental freedoms—entails also the duties and obligations on the part of the majority population. Thus the right to communicate of minorities has also in this respect two pronounced facets: the right itself and the corresponding duties.

45. The scope and the definition of such rights need to be further elaborated.

The impact of technology

46. The meeting felt technology should not be overstressed in conceptualizing communication processes because there are other significant parts of communication structures which are non-technological. Nevertheless, it would be difficult to disregard the social and cultural impact of technological advancement which, in turn, also affects the formulation of the right to communicate.

47. Discoveries and innovations are the propulsive force which cause and promote social change and thus entail important consequences in social and cultural life. Technological change calls for a certain modification of the existing pattern of communication institutions and social structure. A major change in communication technology is bound to affect the whole communication network and system, and eventually will leave a mark on the whole cultural and social pattern.

48. Thus, the right to communicate as a dynamic concept has to (1) be cognizant of the need, especially in developing countries, to more fully and purposefully adapt the traditional and society-based communication structures and devise means of linkages with the technological communication media, (2) adapt itself to the changing technology and ensuing change in social institutions, (3) bear in mind future changes and developments which may be brought about by scientific and technological advances.

49. On the other hand, an established concept of the right to communicate ought to influence and guide the choice and adoption of the most appropriate technology, bearing constantly in mind its social and cultural impact. In this connection, one participant quoted as an example that the only hope for effective exercise of the right to communicate in rural Africa lies in the use of the radio. The question is then: How, using this medium and the limited resources available, can the best results be obtained? The answer to this question lies in identifying an appropriate programme strategy and ways and means of producing good quality and suitable/relevant programmes; finding a workable system of co-operation and co-ordination among agencies and interactions between producers of programmes and their consuming audiences.

RTC and the New International Communication Order

50. There was general agreement in the meeting that there exists a serious imbalance in the present flow of information in the world. To correct this situation in order to achieve a more balanced flow of information, there should be a more intensive exchange of information based on equal opportunities, mutual respect and the adoption of fair principles of international co-operation.

51. Several participants expressed the view that implementation of the right to communicate would be an important step toward the achievement of a new International Communication Order, and that consequently, within the framework of the New International Communication Order there would be a realistic chance and ample scope to remedy the existing imbalances in the international flow and exchange of information. One participant however felt that the concept would be inapplicable to inter-state relations in the use of mass media and that the notion of a new international order can perhaps not be explored further since no 'international communication order' exists.

52. The implementation of the right to communicate would require both the development of new communication structures and the transformation—perhaps a radical transformation—of existing communication structures, especially the large mass media structures. On this point there was strong agreement. The meeting also felt that the development of the necessary new structures within the communication resource-poor communities would require international co-operation and a more balanced exchange of software and hardware, reducing the gap between the resource-rich and resource-poor communities. No participant thought the implementation of the right to communicate would be easy; there was general agreement that the communication resources required for its implementation should be made available.

53. Thus the participants felt that there was an urgent need, on the national and international level, for programmes to increase the availability of means of communication in 'communication-poor' areas. The policies adopted and the technology and operating practices employed should be those most suited to the overall needs of the particular country or area involved in order to ensure the widest opportunities for accessibility and participation of those in the area.

54. As one participant said, in the new communication order, the central policy problem is to assure that communication resources are made available to satisfy human communication needs in a way that is sensitive to the multi-cultural values of a right to communicate. At this time, a clearer formulation of those right-to-communicate values would facilitate the implementation of the right through a body of policy.

55. Another participant, conceding that imbalance exists, said that for the world to allow it to continue, is to foster suspicion amongst nations and to retard the fulfilment of the harmonious world of tomorrow which all people dream of. The remedial actions needed to correct the existing 'imbalance' by allowing the developing nations a greater chance to communicate with the developed countries (where their opinions would be heard, and their culture would be understood and appreciated) were of course formidable and complex.

56. It was suggested that, based on the principles of the right to communicate, remedies for the present imbalance

in international communication relations could be found first of all within the framework of the World Administrative Radio Conference (WARC) which was to be convened by the International Telecommunication Union in 1979; by asking for reconsideration of the allocations of frequencies and the tariffs of telecommunication; by assisting developing countries in training competent media professionals; by assisting developing countries in setting up appropriate media production facilities, and by setting up arrangements of international co-operation in the field of mass media on the basis of equality.

57. Several participants said that if a new right to communicate is to be implemented within a new communication order, a substantial body of communication policy will have to be formulated and implemented—at world, national and sub-national levels. Fortunately, there is emerging out of the activities in communication policy what can with some hope be called a communication policy science. As generally understood, that new science is value-sensitive, problem-oriented and multi-method. In other words, it does not fall neatly into any existing academic or agency pigeon hole; it develops from its own premises.

58. It was also felt that to build a balance not only in information flow but also in research methodologies, it will be necessary to develop new communication policy research methods from the intellectual traditions of several developing regions. While such a task would probably take a long-term commitment by scholars in several regions, the development of even one new communication policy research method that could facilitate examination of the qualitative aspects of a world communication problem such as information balance would justify a major expenditure of time and effort.

Communication between states

59. Although the right to communicate is intended to be a comprehensive concept, some participants felt that there may be a distinction in conducting communications between states and between individuals. One participant felt that in the contemporary world, the unification of national legislation in the field of mass media was yet a 'far-fetched goal'.

60. Some participants felt that generally recognized principles of international law may be applicable to international relations in the field of mass communication, the principle of respect of state sovereignty being one of them.

61. The use of mass media at the international level may require the elaboration of some basic principles, some participants stated. Views were expressed that the process of such an elaboration realistically should perhaps start on a regional level. Some participants felt, however, that there is a possibility that elaboration of some fundamental principles can be applicable to international relations on a world basis and achieved through an atmosphere of mutual understanding. The two approaches were not necessarily contradictory.

62. One participant observed that the role of transnational corporations has been particularly determinant. Many of the undesirable aspects of modern technology had been implanted in developing countries as a result of transnational corporations' progressive control of local markets. Much of the communication pollution is the result of their continuing attempt to train peoples to buy and consume their products. Much of the destruction of cultural patterns in peripheral societies is due to their will of transforming

the world into a big market with lower-cost global advertising. It is then highly pertinent to ask to what extent one can advance further in the accomplishment of a right to communicate if one does not examine and aim at transforming the present transnational structure. In sum, the right to communicate today can be a meaningful concept only if it embraces the effort to overcome the structural and economic limitations that are still essential parts of the international market system.

63. A view was also expressed that there may be a need to restructure or review attempts at the building of a new international economic order so as to allow for a new international information order since these two would be closely related, especially with regard to media infrastructures in the developing countries.

Summary and conclusions

64. For most participants and observers, the right to communicate as a concept did not seem to be an entirely comfortable one. For some participants, it still remained too vague. For one observer, the concept did not fit neatly into the general pervasiveness of communication. For one participant, the gap between the right to communicate 'utopia' and the 'practical' realities of communications today appeared very large. For another observer, the troublesome question seemed to be one of how equity and equality could be achieved across the whole of the communication field.

65. For most of the participants and observers, the right to communicate concept poses 'big and messy' problems that require an outlook larger than that provided by any single cultural background, any single professional discipline, or any particular body of professional experience. And although some of the aspects of the concept were felt to be uncomfortable by some participants and observers, these same participants and observers also generally find the concept hopeful and encouraging.

66. The discussion affirmed in strongest terms the importance of human communication. One participant observed that communication creates society and another, that for man to be man he must communicate. The delicacy of the task of formulating a Human Right to Communicate was emphasized. Finally, and again in strongest terms, it was stressed that the implementation of the right to communicate will require, for some considerable time, the development of the communication resources required for the satisfaction of human communication needs.

67. In summary, the multi-cultural concept of a right to communicate was felt to be dynamic and evolving. From the outset of the work on this concept, attempts had been made to include a wide range of cultural perspectives within it. The concept is dynamic in its focus on interactive and participatory communication. Further, the concept continues to evolve and change as a result of discussion and study.

68. Human communication is now seen as being fundamentally interactive and participatory. For some, the right to communicate is rooted in the pattern of social interaction central to access and participation, while a right to participate is seen as of greatest importance from certain cultural perspectives; for others it is the right to impart information and to receive information internally and internationally which is of greatest concern. In still other circumstances, a right to personal or cultural privacy appears most central. Thus, a multi-cultural right to communicate responds to differing cultural interests by the inclusion of a number of component communication rights.

69. At the level of a specific right, aspects of freedom and of responsibility come to bear on the exercise of the right. The tension that arises from claims of freedom and responsibility then lead to the formulation of communication policy, either implicitly as a part of culture or explicitly in positive law.

70. Even at the early stage of formulation, the right to communicate raises questions of how it might be implemented. Any such implementation seems to require the development and allocation of communication resources to satisfy human communication needs. The process of implementation in turn requires the framework of a new order within the communication and information field.

Further action

71. A number of suggestions and proposals for further action were put forward by the meeting:

- (a) The concept of the right to communicate requires further scrutiny, research efforts, and in-depth studies from diverse cultural settings.
- (b) In the quest for a working definition of the right to communicate, it is recommended that investigation is made of all relevant and related rights which may be embraced by or referred to in such defining of the right to communicate itself, including possible new rights such as a right to select and a right to co-create information.
- (c) The underlying principles of access and participation should be paramount in any further study, particularly in efforts to implement the right to communicate.
- (d) Since the international aspect of the right to communicate did not figure on the agenda and was only peripherally explored, it was suggested that another international meeting of experts (Category VI) should be convened to examine it, particularly in the light of the new international communication order.
- (e) A working group within Unesco should be mandated to pursue the study of the right to communicate concept in order to better understand its potential range of application, keeping in view the realities of international law as well.
- (f) The recommendations of this meeting should be fed into Unesco's intergovernmental conferences on communication policies in Asia, Africa, etc., as well as other policy conferences in related areas such as education and culture.

Appendix B

Meeting of Experts on the Right to Communicate

(Manila, Philippines, 15-19 October 1979)

Final Report

This report is a slightly amended version of a draft presented by the rapporteurs to the final plenary session of the meeting. The Unesco Secretariat was requested to take note of the comments made on that draft and send a revised draft to all participants and observers. Additional comments by participants were then sought before the report was finalized.

A meeting of experts on the Right to Communicate was convened by Unesco in Manila in October 1979. The meeting was organized in co-operation with the Unesco National Commission of the Philippines.

The essential purpose of the meeting was to study priority issues pertaining to the international dimensions of the concept of the Right to Communicate and was a follow-up to a similar meeting held in Stockholm in 1978 which dealt with some of the major issues implied in the concept.

The meeting opened with the welcome address delivered by Counsellor Pedro F. Abella, Secretary-General of the Unesco Commission of the Philippines who said, 'This meeting is being convened by Unesco in pursuance to a resolution adopted at the last General Conference of Unesco authorizing the Director-General to carry out activities contributing to the promotion of research on measures aimed at assuring human rights in the light of the principles set forth in the Universal Declaration of Human Rights. The resolution invites the Director-General to encourage in-depth study and discussion on the concept of the Right to Communicate.'

The concept is new and needs elucidation and it is for this reason that Unesco has invited outstanding specialists on the subject, to discover and clarify the various aspects of the concept.'

Mr Lakshmana Rao, the representative of Unesco, welcoming the participants on behalf of the Organization said:

'In Stockholm we discussed the concept of the Right to Communicate, essentially from three levels—that of the individual, the community (including special interest groups) and the level of the nation. The international dimensions of this concept which we are attempting to define in concrete terms, were left for this meeting to tackle.'

H.E. Francisco S. Tatad, Minister of Public Information, Republic of the Philippines, opening the session, made an analysis of the present communication dilemma. His keynote address restated the case for the establishment of a new world information order, adding his own personal view of what must be done in the way of change:

'I submit that global rethinking of communication philosophy—to govern all its aspects and all its levels—is pre-eminently needed . . .

Even as initially delineated in previous Unesco discussions, "the right to communicate" is already burdened by a host of considerations, including, among others, the information gap between developed and developing countries, access and participation in the communication process, the responsibilities of the media and communicators, the sovereignty of states, etc.

What we fear most is the possible distortion of meaning that will attend the principle, when we do succeed in reducing it to a singular statement; and then even greater likelihood that it will be so general so as to permit international consensus while being at the same time disembodied of meaning.

The problem is far from simple. It seems to me we have to be guided by a definite awareness of the pluralism of values in our world, the diversity of systems, and the differences in conditions. But there should be a certain point, in which our ideas and our values will cohere and clarify for us the importance and possibilities of communication.

A second major consideration must be an awareness of the creative and beneficial possibilities of communication. For there is also the danger that we seek to formulate the right to communicate with a view towards control and not towards its liberating possibilities for man.

Our conception of the right to communicate must squarely and earnestly acknowledge that beyond balance, we can promote the development of peoples; that beyond making communication responsible, we can release its full potentials.'

The meeting elected H.E. Francisco S. Tatad (Philippines) as Chairman, and Mr Narayana Menon (India) and Mr Erland Bergman (Sweden) as Rapporteurs.

In the discussion on the Keynote paper, one participant drew the attention of the meeting to the imbalance in the information flow and stated that some of the industrialized nations were primarily interested in their own national stereotypes and their perpetuation, with the mass media making a strong impact with some aspects of their culture on the developing countries in the process.

Pune Symposium

Reference was made to a symposium in Pune (India) in July 1979. The Pune Symposium came close to the heels of the Stockholm meeting of experts. It tried to bring into focus the evolution of the concept of the right to communicate since that significant phrase came into being ten years ago—the right to inform and be informed, and the related information rights developing into an awareness of the importance of all the issues in the field of communication; the subtle distinction between rights and freedom, of the concept of freedom, with opportunities as an essential component of it, and the responsibilities attending it. The symposium stressed the point made in the Preamble to the Unesco Declaration where it said: 'Freedom of information requires as an indispensable element the willingness and capacity to employ its privileges without abuse. It requires as a basic discipline the moral obligation to seek the facts without malicious intent.' The symposium debated at length the question posed by Mr Sean MacBride: 'How may the right to communicate, with all its ethical and legal implications, be achieved as a new line of thought and action in the whole of the communication field?'

In reviewing the discussion on the right to communicate that had taken place in his own region since the meeting in Stockholm in 1978, one participant noted that this discussion had been far from lively. It seemed to him—he said—that the prevailing feeling among the persons of the region engaged in study and discussions over communication problems did not regard the concept of the right to communicate to be an entirely comfortable one.

The conclusions to be made from the Pune discussions could be summarized—in terms of the right to communicate in the following hypothesis:

- the right to communicate could strengthen the feeling of cultural identity, which is a prerequisite for the peoples' attachment to the group/nation;
- the right to communicate stimulates innovative action;
- different opinions in a society could be put into conflicting positions through a right to communicate, vested not only in a few, but in everyone. The powers that be must welcome such a reflection of prevailing opinions in a society;
- the right to communicate also stimulates scrutiny of economic and political powers by the people—thereby stimulating efficiency in a broad sense.

Participants felt that the right becomes meaningless without adequate education, technology and economic resources to back it; otherwise there was the danger of mere lip service to the concept without effective implementation. In many parts of the Third World, said one participant, there was insufficient understanding of even one's basic rights.

At this stage, a discussion on rights and freedom was initiated by one of the participants. Freedom is not license, and the general feeling of the meeting was that it had to be exercised with responsibility arrived at in open debate between different opinions. There should be opportunities to use it. Rights had to be created by society and implemented by states/authorities with international/universal backing.

Free flow and right to communicate

One participant drew a distinction between the concept of the right to communicate and that of the free flow of

information, and felt that the distinction was not clear to all.

The concept of the free flow of information is frequently referred to as 'an ideological smoke screen to cover the one-way flow of information'. Free flow signified 'the freedom of those who are powerful to exploit those who are powerless'. The right to communicate was a more comprehensive concept and its stresses and dimensions went well beyond the concept of 'free flow'.

One participant held the opinion that the right to communicate could only be limited to national boundaries. This right, a legitimate right in human behaviour, could not be extended beyond the nation-state border. The right in different cultures and under different types of regimes should be absorbed in the formulation of a communication policy that recognizes the growing interdependence of nations, of which communication has been regarded as a determinant in democratization strategies.

Another participant stated that there was a crisis in the existing system of international communication. Throughout the world there is a growing awareness that the present imbalance must be changed through radical action which will fundamentally change the existing structure of international communication. The new international communication order is in fact an integral part of the new international economic order. The struggle for a new international order is a struggle for a new economic as well as a new social, cultural and communication order. The decolonization and emancipation of every society is an integral process, economic, political, cultural and mental. The role of communication in this process of radical change is of paramount importance, as one of the main potential promoters, accelerators and catalysts of social development. The struggle for such a new order has inevitably to be long and difficult. The concept of the right to communicate should not remain a philosophic or a mere abstract concept but should lead to radical, social action and be a dynamic one.

He also made some suggestions concerning the follow-up of the present meeting. First of all it would be important to inform the International Commission for the Study of Communication Problems of the outcome of the meeting. Furthermore, a new programme was to be planned and implemented by Unesco, including the setting up of a special fund for communication development and a Unesco centre for communication research. (Those views were not shared by some other participants, one of whom voiced strong opposition thinking that such a proposal was not within the mandate of the meeting. The latter also stated that he would rather envisage in the future the setting up of an Independent International Communication Body.)

New technology

New communication technology should not be allowed to destroy traditional forms of information dissemination and human communication if a real two-way flow of communication were to become a reality. The past lack of a two-way system was partly due to the scarcity situation in the field of human communication. This situation has changed over time and there is now a situation of abundance. Like in the past, however, the powers that be, economic and political policy-makers are trying to exert control over the new type of technology. Such powers, therefore represented one kind of obstacle for developing a two-way communication environment.

The new technology should not be considered as mere 'gadgets' for the peoples of the rich part of the world. On the contrary, it was mainly the peoples of the so-called Third World who would benefit most by it, if utilized purposefully.

Talking of technology and communication, one participant made a plea to rid oneself of the mass media mentality. Communication has a horizontal dimension as well, and the Third World in particular should look beyond mass media.

The present imbalance in the flow of information and cultural material has to be changed into a more equitable one. The development of communication channels in low-technology countries is often based on achievements in the developed world, which might be acceptable, if the content of communication—or rather information—were also not dominated by the values of the developed world. In some developing countries the influence of Western consumerism has become overwhelming. Governments in developing countries therefore sometimes have to undertake policy measures to protect their citizens. In opposing such measures some participants stated they were as deplorable as the domination from the transnational communication corporations. The ultimate aim should be to liberate the ordinary citizen from all types of influences detrimental to the development of his/her own cultural identity. In this process the right to communicate could be a catalyst, even a 'revolutionary force'.

The notion of 'culture' was also discussed, the participants more or less agreeing upon an anthropological definition, as summarized by one participant in stating that culture is what an individual, or for that matter what a society or a nation thinks, does and has, and that culture is inherited, transmitted and communicated. Therefore there is an inherent equality between the different cultures, even when seen as cultures of the majority and cultures of the minorities within a society and as the cultures of different countries and regions in the world.

The development of new communication structures is required especially in resource-poor communities as well as a transformation of existing communication structures, especially with respect to the role of the transnational corporations.

Working groups

The meeting then decided to form itself into two working groups as suggested in the agenda, so as to deal in some depth with certain specific aspects of the concept of the right to communicate with emphasis on its international dimensions.

Working Group I dealt with the socio/cultural and educational aspects while Working Group II concerned itself with the legal and economic implications of the right to communicate. The working groups had before them some discussion papers submitted by several participants, in addition to the basic working document, the keynote address of the Minister of Public Information and Mr Iuri Kilossov's paper on 'The "Right to Communicate" in International Law' which was also especially written for the meeting at the request of Unesco.

The draft reports of the two working groups were discussed in plenary before being finalized.

Social, cultural and educational aspects

The group identified and discussed within the context of the right to communicate, critical issues affecting the social, cultural and educational life of the various nation-states of the world and made recommendations regarding future actions with respect to better understanding of the concept.

A. Socio-cultural problems bearing on the right to communicate

Deliberation centred on:

1. Dominance of the high-pressure media culture of the powerful and technological sophisticated states in the media of the low-technology ones.
2. High pressure advertising of foreign-manufactured consumer goods (image bombardment) which results in the embedding of foreign tastes and prejudices in the minds of the local population.
3. Use of subtle advertising techniques to make even inferior imported consumer goods look superior to better and cheaper goods manufactured locally.
4. TV and films that are socio-culturally and educationally irrelevant to low-technology nations are, because of their clever production, manipulated through sales techniques, to edge out local productions which, though culturally relevant to local educational objectives are unfortunately less professionally produced.
5. Social and cultural disorientation of Third World youth, resulting from cultural pollution through programmes which appeal to base instincts and TV dramas that tend to glorify violence.
6. Edification of wrong 'models' by focussing public attention on individuals of dubious character and making them appear as 'heroes' and 'angels' by publicity gimmicks (e.g. the 'superstar' syndrome).
7. The formidable stance which transnational media corporations have established in Third World countries and the way it has tended to produce social and cultural lethargy among their peoples resulting in a feeling of passivity, apathy and powerlessness. This has discouraged creativity and innovativeness in Third World nations and impeded cultural and social development.

The educational aspects:

- In education, the problem lies in the scarcity of communication tools because of poverty. Teachers have nothing but blackboards and chalk. Lack of books, periodicals, audio-visual aids and other materials which are needed to teach the appropriate human values is sorely apparent.
- In curriculum content, the vestiges of colonial influence which derail national objectives from the desired goals are still evident and pose tremendous setbacks to development (e.g. dominance of foreign languages in the curricula which students find irrelevant to their aspirations).
- Since most scientific literature, including in some cases, textbooks and other materials for learning skills are written in English, French or other foreign languages, children of developing countries find it difficult to understand and digest them, thus making the process of learning doubly difficult.
- Translation of technical and scientific books into local languages is often difficult, as this is governed by international copyright laws, the violation of which is heavily penalized. (Where permission to reproduce is obtained, translation may still be hampered by lack of symbol equivalents in Third World languages).

B. Suggestions and recommendations for future action

After summing up the socio-cultural and educational problems as identified above (A) on the right to communicate, the group worked out several proposals and recommendations for future action.

These recommendations are aimed at counteracting the culture-erosive effects of foreign media upon the Third World countries, and giving substance to the concept of the right to communicate as it affects individual nation-states and their subcultural and other components.

1. Local production of films, radio and TV programmes of competitive quality in order to win back the patronage of the local audience, particularly the alienated youth. To this end, government and appropriate national agencies are called upon to see to it that professionalism, codes of ethics, technical and artistic quality and social relevance are encouraged. Adherence to national educational, social and cultural objectives should be observed.
2. As far as possible, books, periodicals and other educational media should be produced locally, and 'content' and 'form' given importance.
3. Reactivation of traditional and indigenous media (e.g. ballads, drums, etc.) which by the unfortunate onslaughts of foreign media have been relegated to the background, is to be encouraged.
4. Localization and decentralization of communications facilities and practices, including choice of media content and manner of presentation are an essential ingredient of the right to communicate.
5. An examination of the Western reward system, which is based on competitiveness and individual achievement is recommended. Indiscriminate adoption of this and similar reward models could lead to a stratification pattern characterized by elitism and personality cult and jeopardize the opportunity for collective action in national development programmes.
6. Consultative media bodies, semi-government or independent, vested with authority to lay down media policies that are reflective of public consensus should be established.
7. On the problem of the dearth of locally-produced books, it was recommended that governments fund the publication of books by local authors. It is believed that locally produced books would be more consistent with national educational goals, especially with respect to patriotic aspirations and national development. (An example of such projects is the Educational Development Project Implementing Task Force (EDPITAF) of the Philippine Government; this body decides, funds and assists local authors in publishing elementary and secondary textbooks, international materials, and teachers' manuals in both English and the national language.)
8. The group then went on to discuss communication and information systems designed to enhance the preservation and conservation of cultural values which promote national development. It was felt that communication media should be utilized to promote international co-operation, understanding and goodwill.
 - (a) Aware of the negative effects of excessive 'sensorial' media on the learning potential of people particularly on their writing and reading abilities, studies on how this can be counteracted were recommended.
 - (b) The group also recommended that awards be given on a regional basis to outstanding locally-produced print materials, radio/television programmes and films which are culturally enriching to encourage creativity and innovation in this field.

- (c) It was recommended that in order to assist nations in bridging the time lag and cultural gaps between fast communication technology and the ability of Third World countries to cope with it, an international mechanism be established to study this question and establish some practical criteria.
- (d) Studies which needed to be made on appropriate, useful (low-cost, and desirable) technology transfer from developed to developing countries could be undertaken with the support of Unesco.
- (e) Efforts also needed to be made by national agencies and non-governmental organizations to persuade broadcast and print media to provide regular broadcast time for United Nations and Unesco activities.
- (f) It was suggested that Unesco should further intensify the documentation of country examples of communication structures (policy and planning bodies), access and participation models, and the use of communication for national development. One illustration of such a communication body (in Yugoslavia) was discussed by the group. This decision-making body consists of representatives of various sectors of society who determine policy.
- (g) The group recommended that Unesco initiate research on the outcome and implications of polls and surveys conducted by multinational corporations on how to penetrate local markets.
- (h) The dilemma in cross-cultural communication, the group felt, lies in the fact that not all imported culture may be considered bad. Some imported culture may be good. But the question is to what extent infiltration may be tolerated and to what extent local cultures should be protected and preserved. Importation must be examined in the light of local beliefs and value systems. Studies should be conducted in this area.
- (i) It was also suggested that Unesco sponsor an international forum to discuss problems and issues pertaining to ethnic groups and communities with regard to their right to make their views known.
- (j) Studies needed to be made on the decision-making process as influenced by cultural values and beliefs, including further research on the subject by managers of communication industries.

Legal and economic aspects

A. Towards a definition

The second working group which addressed itself to the legal and economic issues of the right to communicate, felt that a proper definition of the right to communicate is urgently needed now. Such a definition should include the following elements:

It is an individual as well as a social right essential to the harmonious development of a human being and of a collectivity. It is therefore a basic human right. As such it must be integrated into the text of the Universal Declaration of Human Rights.

It applies to both national and international levels.

It implies duties and obligations for individuals, groups and nations.

It presupposes the allocation of proper resources at all levels.

Nations in their sovereign capacity enjoy the right to communicate, which means a bilateral process in their international relations.

Among the sovereign rights enjoyed by states, the right to communicate should be viewed on the same level as the sovereign state's right of existence, independence, equality and property.

1. The need for enshrining and guaranteeing the right to communicate in future international law is imperative in light of the gross communication imbalance which exists today, a situation one-sidedly favouring high technology nations. The definition of this right will constitute the framework for a new world information order.
2. Because communication media is 'trans-border' in essence or supra-national in outreach, it poses questions of international interference; but the right to communicate should be basically compatible with another state's exercise of sovereignty.
3. The exercise of the right to communicate carries correlative duties and obligations of reciprocity, mutual respect and tolerance. This right and its concomitant obligations apply to partners in the communication process at all levels.
4. The right to communicate should be responsive to social, cultural, economic, and environmental factors prevailing among the societies concerned.
5. Technological decisions involving the exercise of the right to communicate having far-reaching social, cultural and political consequences, should not be made on the basis of technical and economic considerations alone. In the field of international co-operation, governments should provide technicians with the appropriate policy guidelines.

B. Suggestions and recommendations for future action

Legal:

1. At the national level, communication legislation and policies to bring about the effective exercise by all concerned of the right to communicate should be adopted.
2. National, regional and international bodies to plan communication development and to oversee and arbitrate issues involving the exercise of the right to communicate as an integral part of the communication process should be established.
3. In order to promote and encourage the proper exercise of the right to communicate, as well as to facilitate the process of arbitration in cases of controversy, codes of ethics should be evolved at various levels.

Economic:

At the national level:

1. Governments should recognize communication infrastructures as a priority investment.
2. Governments attention should be drawn to the restrictive effects of certain national taxes and tariffs on the right to communicate. When based on financial considerations alone, such taxes and tariffs constitute an obstacle to the process of communication, and ultimately to local and national self-expression. A comparative study on this issue should be made.
3. Communication development councils should take into consideration not only the planning of mass media as in the past but also the traditional communication modes as well as the group media potentials (rural press, local radio stations, etc.) for the implementation of the right to communicate. An evaluation of the costs and effectiveness of group media operation should be made.
4. For a country, the exercise of the right to communicate is a continuing process and must of necessity be a long-range concern. The allocation of resources therefore must be planned on a long-term basis.

At the international level:

1. In order to bring about the desired north-south equilibrium, equitable communication resources should be provided through a proper reapportioning of the frequency spectrum. To further enhance this equilibrium, action should be undertaken to give low technology nations greater opportunities to develop adequate communication equipment.
2. International tariffs that do not take into consideration political, social, and cultural values are an undue limitation to the proper implementation of a nation's right to communicate. These should be adequately reconsidered.
3. Developed countries should modify their approach in the communication field toward Third World countries from the generally 'over-commercialized' one to a more realistic and appropriate policy.
4. In some cases, copyright legislations and agreements might constitute an impediment to the proper exercise of the RTC. A close study of this problem should be made.
5. Informatics, a technology which is coming into general use both in developed and developing countries as evidenced by the rapid development of data banks, pose deep implications as regards the private and public lives of individuals, groups and nations. As such its positive applications as well as its possible negative effects on the right to communicate should be given high priority attention. This issue should be studied so that appropriate policies and regulations can be evolved.

Appendix C

Final Report

Study Group of Meeting on the Right to Communicate

(London, March 1980)

Introduction

A Study Group Meeting on the Right to Communicate was convened by Unesco in co-operation with the International Institute of Communications in London from 3 to 5 March 1980. The Group met in six sessions before drawing up a report which was submitted to Unesco.

At its opening session, the Group unanimously agreed to a proposal that Mrs Jadwiga Pastecka act as Chairperson.

The Unesco representative, Mr Lakshmana Rao, briefly reviewed the activities of Unesco concerning the right to communicate before setting out the purpose of convening the Study Group. The task before the Group was to assess the progress made with respect to a wider and better understanding of the concept, to review the reports of the meetings of experts held under the auspices of Unesco in Stockholm (1978) and Manila (1979), and finally to identify areas for future work on the concept. The Group was expected to 'draw up a short list of activities (especially studies) which Unesco and other interested professional organizations may take into consideration in drawing up their future programmes in this field'.

As a basis for its consideration of the right to communicate, the Group stressed the need to adopt an approach and a framework which is forward-looking, and which can respond to the requirements of individual societies and of the international community not only today but also in times to come. Prediction is always difficult and unsure; however, the Group was agreed that individuals and societies in the future will have to cope with increased levels of interdependence in all respects growing interdependence of countries, of issues, and of national and international politics and policies.

The Group started from the notion that communication is a fundamental human and social process: that 'communication is community. Without it there can be no functioning, organized society.'

Therefore, the Group agreed that the concept of the right to communicate was worthy of further in-depth study with the objective of promoting its wide recognition and its incorporation in communication policies and rules.

The Group also agreed that the analysis of the concept of the right to communication should aim at providing an exhaustive description and a conceptual framework which would attract general acceptance. At this stage, the Group as a first positive step in this direction, used the right to communicate as an 'umbrella concept' which both embraces and goes beyond the traditional concepts applied to the communications/information complex.

Roots of the right to communicate

Right to communicate may not be an entirely new right, but it will have to be basically a new one if it wants to meet the challenge of the contemporary world.

There are obvious reasons for the appearance and growth of the new concept of communication, of the new communication right in society as well as in international relations. First, there is the tremendous progress in science and communication technology, affecting every corner of our globe. Second, there is an increasing awareness of the role of communications in society and its development as well as a need for a coherent integrative communication policy. Third, there is a maturing recognition of the interdependence of societies, nations and cultures. Fourth, the awakening of the Third World leads to new demands for a more just, healthy international order, not only economical but also social, cultural, educational and informational.

There seems to be nowadays, especially among the students of this new right, a basic consensus that the right to communicate should stress, above all, the equality of all partners in the communication process, be it on national or international ground, that it should incorporate the multi-cultural, multi-way flow of information, embrace not only the right to be informed but also the right to inform, allowing all the way for the highest possible degree of feedback, participation, access and 'self-management'.

The Group then focussed its analysis of the 'right to communicate' around three basic questions:

- A — Why has the demand for the right to communicate arisen?
- B — What is to be understood by the right to communicate?
- C — How should the right to communicate be developed?

A. The why of the right to communicate

The envisaged goal of obtaining acceptance of a new precept such as the right to communicate requires a clear explanation of the reasons for the emergence of this concept and an answer to the question of why a new communications concept should engage attention and action by the international community and national governments.

Why the right to communicate? The Group grouped the answer to this question under three headings: social and technical changes effecting the communications scene; the experienced ineffectiveness of traditional concepts; and the need for new concepts which correspond to current concerns and situations.

1. Changes affecting the communications scene. The right to communicate should be seen in the context of the striving towards greater democracy and liberty in communication as in other sectors. Current changes in the field of communications require a corresponding development of concepts, policies and rules which more adequately express the present situation and be open towards the future. The following aspects are particularly relevant:
 - (i) The effect of technological developments which have resulted in profound changes of existing communication systems and the introduction of new systems and services. This development has not only brought a quantitative increase but also qualitative changes in the modes of social communication; it thereby effects the organization and conduct of activities in all spheres of life; both work and leisure. This development implies a trend away from a scarcity of facilities to potential abundance which has important effects on the organization and use of communication systems.
 - (ii) Technological development in conjunction with social change has resulted in profound modification in patterns of communication. Modes of interpersonal communication have been supplemented and influenced by successive modes of 'mass communication'; present technology offers possibilities for more flexible and varied patterns of use, particularly at the group and individual level.
 - (iii) Simultaneously, there have been far-reaching changes in the attitudes towards the communication/information, complete communication has been recognized as a fundamental social process: without communication there can be no functioning community.
 - (iv) The evolution of attitudes to communication and patterns of communication is linked to other major social changes: the rise of democracy, the increasing diffusion of political and economic power and the demands for greater public participation which should be reflected in new communication concepts.
 - (v) Similarly, basic concepts used in the communications field need to take into account the transformation of international relations which started with the process of decolonization.
 - (vi) In this perspective, concepts and rules in the communications field should also be responsive to the awakening of the Third World and the recent developments and aspirations expressed in the elaboration of a New International Economic Order and the demands for a New World Communication Order.
2. The experienced ineffectiveness of traditional concepts:
 - (i) The factors mentioned above have had a professional impact on traditional concepts as freedom of information, freedom of opinion and expression, free flow of information, etc., which have been overtaken by events. These concepts and the corresponding rules predate the communication revolution and the transformation of the international system.
 - (ii) In their application, these concepts have not proved capable of providing the basis for a socially desirable equity and balance in the flow of information; on the contrary, it is generally recognized that the present situation is characterized by serious imbalances, both at the national and international level.
 - (iii) Consequently, such traditional concepts as free flow of information have become controversial and divisive which to a large extent has impaired their usefulness.
3. The need for new concepts: there is a need for new concepts that are capable of embracing and go beyond existing concepts whether these concepts have a claim at universal acceptance or have found only limited acceptance. This mood has been expressed in the ongoing work of the right to communicate which corresponds to the following concerns and desired directions of development:
 - (i) There is a need to clarify, extend and develop such traditional concepts as 'freedom of information' in order to move beyond the form of the mass media and strengthen the trend towards democratization and public participation.
 - (ii) The increasing awareness of the fundamental role of communications in society and its development has led to the recognition of the need for such more comprehensive concepts as the right to communicate which can be closely related to the formation of conscious and coherent communication policies.
 - (iii) The concept of the right to communicate goes beyond traditional concepts through its focus on the centrality of man and on the overall social dimensions; the focus on the individual also corresponds to the mood to move beyond a mass media oriented approach.
 - (iv) The concept of the right to communicate can also be closely related to the demands for a new international information order.
 - (v) The right to communicate is in keeping with the changing nature of the communication/information complex. Its dynamic quality is reflected by the stress on a process, thereby ruling out any hint of a static state.

B. The what of the right to communicate

The Group next turned to the question: What do we mean by the right to communicate, what is to be included in this concept, what limits if any should define the concept?

The Group, having agreed that the analysis of the right to communicate has not yet reached a stage which makes it possible to be generally acceptable, decided that the best procedure would be to indicate some of the major ingredients of the concept which could assist in the further required work.

The Group stressed the following aspects as vital and necessary elements in the concept of the right to communicate:

- (i) The right to communicate should first of all be seen as a dynamic and flexible concept which could cope with a variety of socio-economic situations and requirements as well as with new and also unforeseen communication systems media and services. It can thus not be tied to any particular level of socio-economic structure or level of technological development. It must be seen as a universal concept.
- (ii) The right to communicate should be based on a positive and wide notion of communication and on the recognition that communication involves all fields of life.

- (iii) The right to communicate should take into account the diversity of information flows in society and the social purposes of these flows.
- (iv) The concept of the right to communicate is therefore intended to express positive social values of which the most important concern the striving for greater democratization, public participation and access, equality and self-management.
- (v) In particular, the right to communicate should recognize the relationship between communication and development and the role of communications in centring the development process on the full realization of human potential and the promotion of popular participation in the development process.
- (vi) The right to communicate must emphasize communications as an interactive process, and the need to provide not only vertical but also horizontal patterns of communication.
- (vii) The right to communicate is best seen as a combination of rights which have been recognized in various forms at the international level such as the right to live in peace, the right to culture and education, the right to development. In more specifications, the right to communicate should also recognize and include the traditional 'information' rights such as the right to impart and receive information as well as the right to privacy.
- (viii) The right to communicate should be so conceived as to take into account the different levels of communication; as a first step in this direction the Group proposed that the following levels should be considered;
 - the individual level
 - the level of social groups
 - the level of social institutions and agencies in the public and private sector
 - the national level
 - the regional level
 - and finally, the international level.
- (ix) The right to communicate as a comprehensive concept also carries with it the notions of duties and responsibilities. Not only the rights to be included but also the corresponding duties and responsibilities require careful analysis in relation to the different levels at which the concept would be applied.
- (x) It should be considered within the context of international law and international instruments as well as of conventions, covenants, etc.

C. How should the concept of the right to communicate be developed and furthered?

After having considered the why and the what of the right to communicate be further developed, how should the concept be expressed and what further action could be recommended?

General views

- (i) The Group having agreed to use the expression the right to communicate as a matter of convenience, stressed that this should not imply a prejudgement on how this concept could or should be expressed. Given the need for flexibility and implementation in different socio-economic contexts, the right to communicate should not be seen only in terms of possible legal rules. On the contrary, the richness and the scope of

the concept would most probably require expression in a variety of manners which might include:

- policy directives or guidelines
- social programmes
- development plans and projects
- legal rules.

The analysis of the best expression for different aspects of the concept would have to be made with reference both to different socio-economic and cultural situations and to different levels of application.

- (ii) The Group also agreed that the work to develop and further the concept of the right to communicate should be seen as an evolutionary process which should be considered in the long term. As exemplified by other recent international issues which are conditioned by new scientific and social insights and rapid technological change (e.g. the work on the law of the sea), the work on the elaboration of the right to communicate might well be seen in terms of an educational process, involving not only international organizations and national authorities but also the intellectual resources of universities and other research institutions in all parts of the world.

Specific proposals

The Group discussed a wide range of proposals concerning further action to be taken.

- (i) The Group agreed that it would be useful to promote the adoption by the 1980 Unesco General Conference of a resolution which would (a) recommend that the concept of the right to communicate be recognized and (b) recommend further action.
- (ii) The Group recommended that further action should in appropriate form be undertaken on the following:
 - an exhaustive description of the right to communicate
 - an in-depth study of the relation between the right to communicate and other recognized rights in this area and their interrelationship
 - an analysis of the relationship between the right to communicate and the concept of free flow
 - a study of the relationship between the right to communicate and the new international information order
 - study of implication of right to communicate to socio-cultural development
 - study the relationship between the right to communicate and the new economic order
 - a publication by Unesco of the present state of understanding of the right to communicate and its implications for the future.

Conclusion

The Group finally expressed its unanimous desire to invite the Director-General of Unesco to intensify the Organization's efforts to carry further the understanding of the concept of the right to communicate on a wider basis by promoting studies which will investigate in depth the economic, social and cultural implications of the adoption of such a right by the international community.

The Group also felt that all Member States of Unesco should be invited to take a critical look at their communication systems and study the possibility of incorporating the concept of the right to communicate in their communication policies.

Appendix D

Right to Communicate Working Group

(Ottawa, 11 and 12 September 1980)

In connection with the 1980 Annual Conference of the International Institute of Communications, two working group sessions were organized on 11 and 12 September on the Right to Communicate in co-operation with Unesco.

The documentation provided for the meeting included the report of the Unesco Study Group meeting in London, May 1980, a study prepared by Mr Desmond Fisher for Unesco entitled 'The Right to Communicate: A concept in search of a definition' and a working document prepared by the IIC.

The working sessions provided an opportunity for a wide-ranging exchange of views with regard to past work, the present situation and the direction of future work. The main points of the discussions are summarized in the following report.

1. In recent years, the discussion of human rights had taken on a new momentum. This trend has resulted in the development of new concepts in the human rights field of which the right to communicate was an early example. The Working Group was, however, convinced that the concept of the right to communicate should not be subsumed under other new concepts emerging in this area such as the proposed 'right to solidarity'. The right to communicate should also in the future be treated as an independent concept designed to advance the formulation of rights specifically related to communications and information.

The wider and recently growing interest in the concept of the right to communicate had been reflected in a number of fora. It had been mentioned at the Unesco Intergovernmental Conferences on Communication Policies; there were strong references in the MacBride Commission report and many of the discussions at the IIC Ottawa conference were clearly related to this concept.

2. The document prepared by Desmond Fisher gave a succinct summary of the origin and the development of the concept and of the work so far done. It also showed the still remaining gaps in the analysis of the implications of the concept in terms of policy and planning. Thus, further work was needed mainly with regard to technological and economic aspects.

3. It was recognized that a major difficulty was represented by the current lack of agreement on definitions of even such basic concepts as 'communications' and 'information'.

Since, however, there was agreement on certain basic ingredients in the concept of the right to communicate, the Working Group decided to make an attempt to work out a new definition, improving on the previous efforts particularly those made at previous IIC meetings. It was agreed that there was a need for a short, sharp definition

which could serve as the basis for future work and assist policy-makers.

After considerable discussion, the Working Group agreed on the following formulation:

Everyone has the right to communicate. Communication is a fundamental social process which enables individuals and communities to exchange information and opinions. It is a basic human need and the foundation of all social organization. The right to communicate belongs to individuals and the communities which they compare.

It was also agreed that this definition would be circulated to a number of interested experts for their comments.

4. The Working Group also considered the relationship between new communication technologies and the right to communicate and the impact of these technologies in social and economic terms.

There was general agreement that new communication technologies have the capability of enhancing the right to communicate in terms of access, participation, and two-way communication. However, great care should be taken in the application of new technologies and services in different socio-economic and cultural settings. The choice and transfer of technology should be clearly related to identified needs at the individual and community level.

The patterns of communication made possible through the application of new technology should be considered in the design of communication systems and services. It would therefore be of great importance to consider the implications of the right to communicate at the design stage and to involve systems designers in the analysis of the right to communicate and its implications.

5. The introduction of new techniques had resulted in the development of new services and uses which tend to blur the traditional distinctions between categories of services and consequently of the institutional and legal structures based on these categories. In particular, questions were raised concerning the classical distinction between point-to-point telecommunication services and broadcasting services, or in more general terms, between services with and those without an address. This development was a major reason for the need for a new concept such as the right to communicate which was better adapted to the current situation than those traditional concepts that were based mainly on considerations concerning the press.

It was also recognized that whatever conceptual approach was adopted it would have to recognize that practical application of the right to communicate implied

the use of a medium of communication and that each medium carries its own resistance and distortions.

While work on the philosophical-conceptual aspects were important in order to advance the analysis and the acceptance of the concept of the right to communicate, work on the more practical and concrete technological and economic aspects should proceed apace.

Consideration should also be given to the procedures to be followed for gaining wider recognition of the right to communicate at the international, intergovernmental level. While there was agreement on the ultimate goal of embodying the concept of the right to communicate in an international legal text, further thought should be given to the preferred and possible time-frame, organizational locus and preparatory work.

6. With regard to future work the following suggestions were made:

(a) The Working Group welcomed the idea of a Unesco publication on the right to communicate. It was hoped this publication would include new material which could assist policy-makers and planners in the application of the right to communicate.

(b) In terms of future studies, the Working Group agreed that high priority should be given to technological and economic implications of the right to communicate. The IIC as well as concerned individual members were prepared to co-operate with Unesco in these projects.

(c) The Institute would continue work through a Working Group composed of IIC members having shown an active interest in the subject matter. Participants recommended that Professor Stan Harms should act as co-ordinator of this group which would be convened in connection with the 1981 IIC Annual Conference and in the meantime would work through correspondence. One suggested task of the Working Group would be to continue consideration of the conceptual aspects in relation to the new definition suggested by the Ottawa meeting, and of the technological and economic implications of the right to communicate.

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