Chapter 2
ICT Policies Favouring Human Rights

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ABSTRACT

The tremendous developments in information and communication technologies (ICTs) over the last 20 years have substantially changed communication practices across the world. The Internet and mobile phones help to open new horizons for connections between people, leading to a global network for the sharing of information and ideas. In this new environment, human rights need to have a place, and traditional notions related to mass media need to be adapted to the needs of civil society. Freedom of expression has become much more individualistic, with information exchanges no longer relying on the traditional intermediaries (mass media) but on the exchange of ideas on social networking and other platforms. Civil society participation in the information world requires the necessary infrastructure however. And since states have an obligation to see to it that human rights are realized in practice, this may mean the facilitation of private investments to improve the ICT infrastructure. In this context, ICT policies favoring human rights must encompass a right to development.

INTRODUCTION

This chapter begins with a few general remarks on technological developments relating to the Internet and mobile phones. These are followed by a historical (political-legal) review of how

the approach to extending ICT rights globally has moved from the New World Information and Communication Order (NWICO) to the World Summit of the Information Society (WSIS). After that, the chapter examines the current legal framework for human rights, and the new opportunities presented by digital communications (particularly in relation to freedom of expression as a key hu-

man right) and the risks related to their realization (censorship, storage of data/surveillance as threats, acknowledgement of indirect effects of human rights). The analysis shows that the traditional human rights are still apt to comply with the new needs, however, the scope of interpretation might have to be extended to updated understandings. Subsequently the targets for successful enjoyment of human rights, such as the enlarged scope of economic and social rights, the removal of trade barriers, the achievement of diversity, and the establishment of community media are discussed in detail. Finally the chapter concludes with a proposal to strengthen the (enforceable) right to development.

TECHNOLOGICAL DEVELOPMENTS

Recent technological developments in the field of information and communication technologies have been tremendous. These developments encompass aspects of fixed and mobile infrastructure. In respect of the fixed networks the provision of broadband is at the forefront, allowing the transmission of much more information and images at a higher speed. The mobile infrastructure is becoming more significant in terms of information exchanges and the execution of business transactions. According to the International Telecommunication Union (ITU), the number of mobile cellular subscriptions globally reached 5 billion at the end of 2010, and the use of mobile phones is likely to continue to increase significantly in the near future.

The explosion in access to digital communications over the last 20 years has been remarkable. 15 years ago only 0.4% of the world's population had access to the Internet, but by the end of 2009 an estimated 26% of the world's population were using it (corresponding to 1.7 billion people) (ITU, 2010). This development has been supported by the fact that the costs of Internet services fell on average by 15% during the last 3 years. Nev-

ertheless Internet usage is still concentrated in the West, with Internet penetration in developed countries estimated at 64%, as compared with 18% in developing countries.

The steep growth in mobile cellular subscriptions is at least in part driven by an increased take-up and advancement of mobile business services around the world. However the growth of these mobile business services does not only depend on technological advances, but also on consumer confidence in the services provided. In industrialized countries, the additive model applies, meaning that mobile business services constitute a further (suitable) channel for consumers already demanding the respective services. In the developing world, the transformative model aims at offering these services to customers that have not previously been involved in business services transactions.

POLITICAL DEVELOPMENTS

The realization of a global communications order is not a new objective. For almost 40 years politicians have debated how a reasonable legal framework supporting the participation of global civil society could be institutionalized. For the present discussions it is worthwhile to reflect upon the historical milestones.

New World Information and Communication Order

The attempt to introduce principles of governance in relation to information services is not completely new as the issue of information flow has been a discussion topic for many decades. The Internet is a new medium, but traditional media also facilitate cross border information services which have called for an applicable legal framework.

After decolonization became wide-spread (in the 1950s and 1960s many former colonies attained their independence), the world was divided along

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