

Generic Framework on Communication Rights: Second Draft Attributes and Indicators

Pillar 1: Creating Spaces for Democratic Environments: The Public Sphere	
Attributes of Communication Rights	Indicators of a Conducive Environment for Communication Rights
A1: Freedom of Expression , including the right to criticise those in power, and an atmosphere of openness.	<p>A1.1 Constitutional provision and laws guaranteeing freedom of expression.</p> <p>A1.2 The absence of government or corporate actions to restrict freedom of expression, and the active enforcement of freedom of expression laws.</p> <p>A1.3 Active measures to promote an atmosphere of candid discussion and openness.</p>
A2: Freedom of the Press and media, including for journalists to carry out their work, and associated responsibilities.	<p>A2.1 Constitutional provision and/or laws guaranteeing freedom of the press and of all media, and editorial independence, with the minimum of restrictions, including the prohibition of monopoly in any medium.</p> <p>A2.2 Measures to prevent violation of human rights of journalists in the course of their work, especially in areas of conflict.</p> <p>A2.3 Measures to support editorial freedom for journalists, including job security, trade union membership, author's moral rights and resisting moral and other coercion by employers and others.</p> <p>A2.4 Independent instruments and measures to ensure a right of reply, protect members of the public against defamatory claims, protect privacy and prevent incitement to violence, and other provisions contained in international agreement.</p> <p>A2.5 Measures to prevent censorship by commercial entities of material relevant to the public sphere, including of electronic content and internet, for instance by ISPs, search engines, and wholesale bandwidth suppliers.</p>
A3: Access to, and ready availability of, public and government information , in a comprehensive, usable and timely manner, especially regarding policy development and implementation and issues of public concern such as health, security, etc.	<p>A3.1 Freedom of information legislation, with minimum retention for government and public bodies and maximum access by the public at large.</p> <p>A3.2: The implementation of such laws to make information available in a timely and affordable manner to all.</p> <p>A3.3 Active public sector and government efforts to expand openness and transparency, including through such means as:</p> <ul style="list-style-type: none"> - Structures or offices to compile and release information in appropriate forms; - Publication of goals and plans for policies and public services; - Protection for public employees who disclose information in the public interest; - Broadcasting of deliberations of elected representatives and public bodies; - Transparency of decision-making on matters of public interest, such as cabinet decisions. <p>A3.4 Openness and transparency of government in international negotiations and institutions relating to media and the public sphere.</p>
A4: Access to corporate information , in a comprehensive and timely way, where relevant to issues of public interest.	<p>A4.1: Corporate disclosure legislation/regulation, beyond basic financial information to include information available to corporations that will have a bearing on public policy and on the public interest.</p>

<p>A5: Diversity, Plurality and Accessibility of media and content, ensuring a diverse range of views from all sections of society, including minorities and marginalised groups, and a fair representation of all groups, including women, ethnic and minority groups.</p>	<p>A5.1 Legislation and effective measures to prevent concentration of media ownership or control by any sectoral interest or individual person or entity, including:</p> <ul style="list-style-type: none"> - Concentration of ownership of a particular medium; - Cross-ownership between media; - Cross-ownership of production, content dissemination and infrastructure components of media; - Excessive foreign ownership and ownership by non-media corporations. <p>A5.2 Legislative framework for the emergence of a plurality of media types at national and, as appropriate, regional and local levels: public service, commercial and community/independent media, including the transparent and equitable allocation of radio spectrum and other public goods.</p> <p>A5.3 Effective measures to ensure that public service media have adequate resources available to them, especially in relation to news and current affairs, are fully independent of government and not subject to arbitrary interference, and are free of unnecessarily cumbersome regulation.</p> <p>A5.4 Effective measures to ensure that community and non-profit media have adequate resources, including public resources such as spectrum, are free from arbitrary interference; are transparent, democratic and participative; and are supported especially among disadvantaged and marginalised communities.</p> <p>A5.5 Enforceable regulatory obligations on commercial media including broadcasters, as appropriate, to ensure they fulfil public service requirements.</p> <p>A5.6 Effective measures to ensure affordability and accessibility of relevant media (including newspapers and television) and content, especially among poorer and marginalised linguistic and cultural groups, such as preferential tax regimes, free-to-air broadcasting, must-carry obligations on cable operators etc.</p> <p>A5.7 Effective measures, as required, to address inadequate representation or gross misrepresentation of women, ethnic groups, poorer and marginalised groups within the media.</p> <p>A5.8 Support for measures in multilateral institutions and arenas to ensure the protection of, and support for, media nationally, including for instance the right to discriminate in favour of local media and to regulate content originating outside.</p> <p>A5.9 Effective measures to prevent advertising from exerting a negative influence on the public sphere, such as ensuring it is readily identifiable as advertising, limiting the volume of advertising, and limiting the political or religious content. Expenditure of public funds on advertising may also be used to support the public sphere..</p>
<p>A6: Effective participation by all elements of civil society in design, implementation and evaluation of media governance structures and policies.</p>	<p>A6.1 Extensive open public consultation on, and participation in, government media policy development, including in intergovernmental institutions and arenas.</p> <p>A6.2 Effective ongoing means for public concerns and complaints to be heard and acted upon with regard to media policy.</p> <p>A6.3 Permanent mechanisms for independent direct public participation in national and international ongoing policy review and implementation, in a decentralised manner as appropriate, for instance through Public Councils" and periodic public conferences with major civil society participation.</p> <p>A6.4 Self-governance mechanisms and instruments developed and deployed by civil society, recognised or not by government.</p>

Pillar 2: Reclaiming the use of Knowledge and the Public Domain

Attributes of Communication Rights	Indicators of a Conducive Environment for Communication Rights
<p>B1: A balanced knowledge sharing regime, that <i>both</i> ensures that knowledge generated, or disseminated, by media and communication sectors is available to all in an affordable and equitable manner, <i>and</i> encourages creativity as widely as possible throughout society.</p>	<p>B1.1 A national strategic and policy orientation to knowledge creation, dissemination and use (especially copyright and including published and broadcast educational materials and software) whose explicit goals are to enrich the public domain, satisfy the various needs for knowledge, and encourage creativity from all sectors of society. This might be expressed in positions and policies on IPRs, on an ‘information society’ or a ‘knowledge economy’, on media or other areas, both nationally and in international organisations, agreements and treaties.</p>
<p>B2: Practical measures to implement this regime.</p>	<p>B2.1 Public policies and actions to encourage and enable widespread generation and communication of knowledge, that might include:</p> <ul style="list-style-type: none"> - Ways of celebrating good works by professionals and the public; - Public incentives for local/national research and knowledge creation in areas of recognised need; - Public instruments to facilitate access to knowledge , including a policy of dissemination of content of public interest; - Public supports, for instance through public procurement policy, for open source and free software, and for the development of national expertise; - School curricula encouraging enquiry methods of learning; - practical supports for ‘development and community-friendly’ approaches to knowledge sharing such as copyleft, GPL etc. <p>B2.2 Active interpretation and implementation by government and public bodies of national and international laws and agreements in copyright and relevant patents, in favour of balanced knowledge sharing e.g.:</p> <ul style="list-style-type: none"> - Support for ‘fair use’ of copyrighted material, often undermined by non-negotiable licensing contracts for digital material e.g. journals; - Recognition and protection for the ‘moral rights’ of authors; - Constraints on digital rights management, encryption and anti-circumvention devices that inhibit fair use of electronic information; - Efforts to tailor IPRs to national conditions, often running counter to trends in international agreements; - Efforts to tailor IPRs on digital products that promote new business models based on the knowledge sharing, and avoidance of measures (e.g. patenting of software) that can sustain monopolies or oligopolies and inhibit innovation; - Efforts to ensure that expressions of folklore are not copyrighted and exploited by external parties (including the problem of ‘identifiable author’) e.g. by incorporation of folkloric protection in national law (e.g. Bolivia 1968, Kenya 1975).
<p>B3: All publicly funded and produced works to become part of the public domain.</p>	<p>B3.1 Public policies and practical measures to ensure that all knowledge supported by public funds immediately become part of the public domain.</p> <p>B3.2 (see A3.3) The volume of information held by public bodies, should be placed in the public domain.</p> <p>B3.3 Public service media to place their archives in the public domain.</p>
<p>B4: Effective participation of civil society in governance processes, including formulation and design, regulation, implementation and review, and support to participate at international level.</p>	<p>B4.1 A participative policy development, that includes meaningful inputs from civil society and the resources required for all partners to make an effective contribution.</p> <p>B4.2 Effective ongoing means for public concerns to be heard and acted upon with regard to governance and policy.</p> <p>B4.3 Permanent mechanisms for public participation in ongoing policy review and implementation, in a decentralised manner as appropriate, including in relation to international agreements.</p> <p>B4.4 Self-governance mechanisms and instruments developed and deployed by civil society, recognised or not by government.</p>

Pillar 3: Civil Liberties & Political Rights in the Information Society

Attributes of Communication Rights	Indicators of a Conducive Environment for Communication Rights
<p>C1: Information privacy and data protection, comprising the right to be aware of, access, correct and control the use of all personal information held in digital form by others.</p>	<p>C1.1 Laws to ensure that personal data are held for the minimum necessary period and used only for purposes authorised by the person to whom the data refers. This includes, but is not limited to, personal data provided for services (health financial, purchases etc.), public and private security activities, video surveillance material, data held on identity cards (conferences, employment), and employee data held by employers.</p> <p>C1.2 Enforcement by the public of such laws in an affordable, transparent and proactive manner, and a right to redress where rights have been violated.</p> <p>C1.3 Existence of a widespread culture of self-regulation and codes of practice in privacy and data protection, among civil society, government and private sector actors.</p>
<p>C2: The right to privacy of communication is a human right and is essential for self-determined human development in civic, political, social, economic, and cultural activities.</p>	<p>C2.1 Laws and regulations to ensure a right to privacy of communication, by internet, telephony or other electronic means, with exceptions only in clearly-defined extreme circumstances, and covering access in private, public and commercial environments.</p> <p>C2.2 Enforcement of such laws in a transparent, non-partisan and proactive manner, including against government violations, and a right to redress where rights have been violated.</p> <p>C2.3 Laws to control Spam (unsolicited commercial e-mail) and prevent it from inhibiting the general capacity for internet interaction.</p>
<p>C3: Freedom from electronic censorship The right to transmit electronic information without censorship or control from government, legal, commercial, employer or other sources.</p>	<p>C3.1 Laws protecting against censorship on the Web or other electronic means of publishing, through filters, prescribed Websites, sanctions against ISPs or content providers, and ISP liability for content?.</p> <p>C3.2 Laws or regulations, including industry self-regulation, obligating commercial operators of electronic publishing and dissemination (ISPs, search engines, bandwidth retailers etc.) to act as ‘common carriers in relation to legal material.</p> <p>C3.3 Enforcement of such laws in an affordable, transparent and proactive manner, and a right to redress where the law has been breached.</p>
<p>C4. Freedom of association in the electronic sphere, to engage in public protest and debate online.</p>	<p>C4.1 Laws to guard against excessive video surveillance and the ‘chilling effect’ is may have on freedom of association.</p>

<p>C5. Effective participation of civil society in the governance process, including formulation and design, regulation, implementation and evaluation.</p>	<p>C5.1 A participative policy development process, that includes meaningful inputs from civil society and the resources required to make an effective contribution.</p> <p>C5.2 Effective ongoing means for public concerns to be heard and acted upon with regard to governance and policy.</p> <p>C5.3 Permanent mechanisms for public participation in ongoing policy review and implementation, in a decentralised manner as appropriate, including in relation to international agreements.</p> <p>C5.4 Self-governance mechanisms and instruments developed and deployed by civil society, whether recognised or not by government. (see C1.3 above)</p>
--	---

Pillar 4: Securing Equitable and Affordable Access to ICTs

Attributes of Communication Rights	Indicators of a Conducive Environment for Communication Rights
<p>D1: Affordable, equitable and appropriate access to ICTs for all people and communities, including to telephony, to internet and other services.</p>	<p>D1.1 A political and regulatory framework that strongly favours the extension of universal service/access to ICTs as the priority for the sector.</p> <p>D1.2 Policy measures, conventional and innovative, that go beyond the market and corporate-driven approach to include for instance community-owned networks, effective cross-subsidy from wealthier users towards universal services, and so forth. Consideration will be given to e.g.:</p> <ul style="list-style-type: none"> - Fixed infrastructure and telephony - Mobile phone, including affordability - Community telecentres - Licensing of ISPs, internet gateways, support measures for internet ; - Vsat and data links <p>D1.3 Support for local industry development across ICTs sectors, such as specific incentives, transition periods to build up local companies etc.</p> <p>D1.4 Statistics and indicators that demonstrate that the net impact of policies implemented is actually to reduce the access gap, in availability, affordability, access and use, and to promote public welfare.</p>
<p>D2: The availability of relevant content for all linguistic communities and for marginalised groups.</p>	<p>D2.1 Support actions for content production for and by all linguistic communities.</p> <p>D2.2 Support for development of technical linguistic software and hardware interfaces.</p>
<p>D3: Widespread skills and capacities to enable people and communities to utilise ICTs to achieve individual and collective goals.</p>	<p>D3.1 Support for skills and capacity development, such as training, exchange programmes, formal curriculum modules etc. widely available in general educational establishments such as schools, libraries, community centres etc.</p>
<p>D4. Effective participation of civil society in the governance process, including formulation and design, regulation, implementation and review.</p>	<p>D4.1 A participative, multi-stakeholder strategy development process, that includes meaningful inputs from civil society and the resources required for all partners to make an effective contribution. This includes infrastructure (fixed, wireless) and services (telephony, mobile, data and internet); and the nature of the strategic understanding and planning.</p> <p>D4.2 Effective ongoing means for public concerns to be heard and acted upon with regard to governance and policy.</p> <p>D4.3 Permanent mechanisms for public participation in ongoing policy review and implementation, in a decentralised manner as appropriate, including in relation to international agreements.</p> <p>D4.4 Self-governance mechanisms and instruments developed and deployed by civil society, recognised or not by government.</p>