



# FACULTY OF JURIDICAL SCIENCES

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# Lecture-25



## LECTURE 25: International Media Regulation

### International Media Regulation

The media are still essentially national institutions which do not yield competence to external bodies. In the absence of global government, international communication is not subject to any central or consistent system of control. The forces of the free market and of national sovereignty combine to keep it this way. Nevertheless, there is quite an extensive set of international controls and regulations that do constrain nationally based media, typically as a result of voluntary cooperation for necessity or mutual advantage. For the most part such regulation is designed to facilitate global media in technical and trade matters, but some elements are concerned with normative matters, however non-binding.

The origins of global governance are to be found in agreements designed to facilitate the international postal service, by way of the Universal Postal Union in the mid 19th century. At about the same time (1865) the International Telegraph Union (ITU) was founded to help coordinate interconnections and establish agreement on tariffs, with a subsequent extension to responsibility for the radio spectrum. In both cases, for the moment, governments and state monopolies played a key role. After World War II, the United Nations provided an arena for debate on mass media matters, with particular reference to freedom of expression (guaranteed by its Charter), the free flow of communication between countries, and issues of sovereignty. In 1978 an attempt was made in UNESCO, at the behest of a number of developing countries, to introduce a Media Declaration stating a number of principles for the conduct of international media, especially in relation to propaganda for war and hostile reporting. Opposition by western countries and free market media led to its failure, but it did place a number of new and contentious issues on the agenda of concern and debate and contributed to the recognition of certain communication rights and obligations. There are still international treaties, including the UN Declaration and both the European and the American Conventions on Human Rights, that offer some redress to those injured by misuse of communication.

The paradigm shift that has occurred towards deregulation and privatization, coupled with the new 'communications revolution' based on computers and telecommunications, closed off the path towards greater international normative regulation. But the same shift increased the need for technical, administrative and economic cooperation on a range of issues. Most recently, the

development of the internet has stimulated calls for international regulation, but this time with some reference to content as well as structure.

The main bodies that now play a variety of key roles in the emerging system of media governance at the international level are as follows (see O Siochru and Girard, 2002):

- The International Telegraph Union (ITU): governed by a council of delegates nominated by national governments, the ITU deals with telecommunication technical standards, spectrum allocation, satellite orbits and much besides.

The World Trade Organisation: the WTO has immense power on economic matters and impinges more and more on the media, as they become bigger business and more commercialized. Central issues for the WTO are free trade and protection, with implications for limits to national sovereignty in relation to media policy. The policy of the EU for protecting broadcasting is especially vulnerable as is public broadcasting generally. Apart from the EU, other regional trade organizations, or agreements (such as NAFTA [North American Free Trade Agreement.]), can impinge on media issues.

- The United Nations Educational Social and Cultural Organisation (UNESCO): a branch of the UN established in 1945, UNESCO has wide competence on cultural and educational matters, but little power and no very specific media functions. It is, however, active on questions of freedom of expression and the internet.
- The World Intellectual Property Organization (WIPO): established in 1893, WIPO has a main aim of harmonizing relevant legislation and procedure and resolving disputes between owners of rights, authors and users.
- The International Corporation of Assigned Names and Numbers (ICANN): this is the latest addition to an array of governance bodies. It is a voluntary private body that aims to represent the community of internet users. It started in 1994 after privatization of the World Wide Web and its main function was to allocate addresses and domain names, plus some server management functions. It has little power to deal directly with the emerging social and other problems relating to the internet.

- The European Commission (EC): the EC can influence certain aspects of broadcasting and telecommunications relating to the 25 member states of the European Union.

There are many other bodies with varying remits for issues relating to international media. Many represent various industry interests, including those of publishers, journalists, and producers. There are also many non-governmental organizations (NGOs) speaking for interests in 'civil society'. For the reasons given, effective regulation is still largely confined to technical and economic matters, rather than social and cultural issues, with the possible exception of freedom of communication. Nevertheless, there are many scattered signs of growing internationalism and, arguably, a need for a more suitable frame of analysis than is offered simply by an array of national states.

The growth in international media raises new issues for control of media. While media messages are no longer easy to halt at the national frontier, there are still many practical obstacles to trans border flow.

### **United Nations Acts**

The Organization of the United Nations has an important role in the development of freedom of information as a human right. The most important international legal acts of the United Nations which contain media rules include: -

The universal Declaration of Human Rights,

International Covenant on Civil and Political Rights and

Resolution 59 (1) on freedom of information.

### **The Universal Declaration of Human Rights**

The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on 10 December 1948 and it represents the first global expression of rights that belong to all human beings. The Declaration consists of 30 articles which have been elaborated in subsequent international treaties, regional human rights instruments, and national constitutions and laws.<sup>3</sup> Therefore, The UN General Assembly proclaimed The Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end

that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.<sup>4</sup> Article 18 of the Declaration stipulates that “everyone has the right to freedom of thought, conscience and religion.”

Article 19 stipulates 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.” These freedoms and rights are implemented in most Constitutions of the member states of the United Nations, including the Republic of Macedonia. In this section, briefly shall be clarified that freedom of expression constitutes one of the basic pillars of democracy.

Namely, this freedom protects the right of individuals to shape and express their opinion and the right to establish associations that will encourage and disseminate their collective opinions on the social realities and developments. The freedom of expression shall grant each individual with the right to express oneself freely and shall not be prevented from no one. If the expression of opinion is limited, as well as the publication of facts and figures, then it can be said that democracy does not exist.

### **International Covenant on Civil and Political Rights**

In The International Covenant on Civil and Political Rights, Article 18 stipulates that "everyone shall have the right to freedom of thought, conscience and religion", which stipulates that this right "may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." Article 19 of the Covenant stipulates that no one may be harassed because of their opinions, and that every person has the right to freedom of expression. This right, in fact, shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of

national security or of public order (ordre public), or of public health or morals. Namely, the freedom of expression in any democratic society cannot be absolute, which means that it shall have boundaries and move within the achievement of other goals that have public interest (such as national security, public order and public morality). Indeed, freedom of media shall not mean their absolute freedom. Even in the most democratic societies may not be allowed the media to publish information that would endanger public interests. The philosophy of media freedom shall be the ability to strike balance between media freedom and freedom of expression of individuals.

### **Resolution 59 (1) Freedom of Information**

The Resolution 59 (1) Freedom of Information from 1946 stipulates that the freedom of information shall be a fundamental human right and the basis for all freedoms that the United Nations are fighting for.

### **Acts of the Council of Europe**

The most important legal sources of media law which have been adopted by the Council of Europe are: - European Convention on Human Rights, - European Charter for Regional or Minority Languages and - Framework Convention for the Protection of National Minorities.

### **European Convention on Human Rights**

The European Convention on Human Rights was signed on 4 November 1950 in Rome, Italy, but entered into force in 1953. This act is particularly important because has continuously developed through the interpretation of its provisions by the European Commission of Human Rights and by the European Court of Human Rights. This Convention shall be implemented by almost all States Parties, which it has been introduced in their legislation and it is part of their legal system. Article 10 of this European Convention on Human Rights stipulates that "everyone has the right to freedom of expression" (paragraph 1). For the purposes of this determination, the freedom of expression contains three components, namely: - Freedom of opinion; - Freedom to receive information and - Freedom to impart information and ideas without interference by public authority. It is necessary that all three aspects of freedom of expression to be exercised without interference from the government, whereas if any attempt is made to limit this freedom

shall signify a direct threat to democracy and discrimination against people who have different opinion than others, and shall be a breach of the European Convention on Human rights.

Under the European Convention on Human Rights freedom of expression 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. Article 10 shall not prevent States from requiring the licensing of broadcasting, television or cinema.

European Charter for Regional or Minority Languages The European Charter for Regional or Minority Languages (ECRML) is a European treaty adopted in 1992 under the auspices of the Council of Europe to protect and promote historical regional and minority languages in Europe. Each country shall take certain measures in different areas including the media in order to promote the use of regional or minority languages. In article 11 of this Charter it is stated that the promotion of regional or minority languages in the media shall be vital for their preservation. Furthermore, it is specified that the parties shall undertake to ensure to users of regional or minority languages: - Opening at least one radio station and one television channel in the regional or minority languages; - To encourage or facilitate the opening of the press; - For the application of this Charter shall be prepared periodic reports for the signatory countries by the Committee of Experts of the Council of Europe.

### **Framework Convention for the Protection of National Minorities**

The Framework Convention for the Protection of National Minorities was adopted in 1995 and it pays special attention to the media. The provisions of this Convention determine that minorities should be ensured access to the media with the promotion of tolerance and cultural pluralism in the media. In order this need to be accomplished should be taken more measures such as the following: - Financial support of broadcasters that broadcast programs in minority languages; - Funding for programs dealing with topics related to minorities or dialogue between different ethnic groups; - To encourage editors and broadcasters to enable access of national minorities in their programmes. In Article 9, paragraph 1 it is stated that “The Parties shall undertake to



recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers”. There is an advisory committee composed of eighteen experts that monitor the implementation of the Convention and publishes opinions on the Rights of minorities in the media area of the member states of the Council of Europe. Globally, there are more international organizations or institutions that have a mission to improve the freedom of media and freedom of expression worldwide.

Such organizations or institutions are: - The International Press Institute, which is headquartered in Zurich; - Reporters without Borders; - Freedom House; - Center for Freedom of Information, which is established within the University of Missouri, at the Faculty of Journalism.

## SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.	In the absence of global government, international communication is not subject to any central or consistent system of control.	True	False
2.	The origins of global governance are to be found in agreements designed to facilitate the international postal service, by way of the Universal Postal Union in the mid 19th century	True	False
3.	International Telegraph Union (ITU) was founded to help coordinate interconnections and establish agreement on tariffs, with a subsequent extension to responsibility for the radio spectrum.	True	False
4.	After World War II, the United Nations provided an arena for debate on mass media matters, with particular reference to freedom of expression	True	False
5.	WTO has immense power on economic matters and impinges more and more on the media	True	False

**Answers: 1-(b),2-(a), 3-(a),4-(a),5-(a)**