Office of the High Commissioner for Human Rights

Background Note on the Information Society and Human Rights

October 2003

Introduction

The Information Society of the twenty-first century is rapidly developing, at such a speed and with such profound changes to society and people's lives that one can speak of a true revolution. Telecommunication, broadcasting multimedia and information and communication technologies (ICTs) enable the development of new products and services, but also have enormous impact on various aspects of social life, such as education, health, media, public services and commerce. ICTs have been rapidly changing contemporary society and community life. On the other hand, the majority of the world's population has no access at all to ICTs or the benefits of the Information Society.

In response to these developments, the United Nations General Assembly mandated in its resolution 56/183 the organizing of the World Summit on the Information Society. In this resolution, it recognized the urgent need to harness the potential of technology for promoting the goals of the United Nations Millennium Declaration and to find effective and innovative ways to put this potential at the service of development for all. It also mentioned the need to build commitment to promote the access of all countries to information, knowledge and communication technologies for development so that they can benefit from the ICT revolution, and to address relevant issues related to the information society.

Role of human rights in the Information Society

Information and communication technologies (ICTs), are critical tools for the attainment of a more peaceful, prosperous and just world. However, because of the neutrality of technology, these ICTs also have the potential to perpetuate inequalities and to adversely affect promotion and protection of human rights. In order to ensure that the

Information Society benefits all, it is essential that human rights are firmly placed among its guiding principles.

The human rights standards developed on the basis of the United Nations Charter and the Universal Declaration of Human Rights constitute a set of internationally adopted norms, relevant to all spheres of life, including the Information Society. A number of key human rights treaties set legal standards for States parties for the promotion and protection of human rights: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families. All of these treaties contain specific sets of articles which stipulate rights that are directly affected by the dramatic advances in telecommunications, broadcasting and other forms of ICTs.

What is a human rights approach?

A human rights approach to the Information Society places the promotion and protection of human rights among the raisons-d'être of the Information Society. Thus, a human rights approach views ICTs not only as a means of exchanging and disseminating information, but as a tool to improve the enjoyment of human rights such as the freedom of expression, the right to education, the right to health, the right to food and other rights, seeking universal access by all to information and services. The human rights approach seeks to bring individuals and communities, particularly the disadvantaged, vulnerable and socially excluded, squarely into the Information Society, upholding the principles of non-discrimination, participation and accountability. Finally, a human rights approach protects individuals and communities against the transgressions of the right to privacy, restriction and control of rights and freedoms, and against excesses of the Information Society - in particular by promoting protections against hate and racist messages, child pornography and other abuses of human dignity.

Which human rights in particular?

Development of an equitable, participatory, democratic Information Society which benefits all requires the respect of all internationally recognized human rights and fundamental freedoms. Certain international human rights listed below deserve special attention:

- *Article 19 of the Universal Declaration of Human Rights (UDHR): Freedom of expression and right to seek, receive and impart information*: This right is particularly important in the Information Society since it forms the necessary condition for the realization of other internationally recognized human rights. The human right mentioned under article 19 of UDHR includes "freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Furthermore, the right to access information would also entail the availability of adequate tools to access information, and has implications for the sharing of knowledge as well. The Special Rapporteur on freedom of opinion and expression wrote in his 1995 report that "freedom will be bereft of all effectiveness if

the people have no access to information. Access to information is basic to the democratic way of life." (E/CN.4/1995/32, par.35).

This right has taken a new meaning and importance with the arrival of new ICTs and Internet capabilities. While under *article 29, paragraph 2 of UDHR*, a State may impose certain limitations by law of rights and freedoms for the sake of morality, public order and the general welfare, these may not put in jeopardy the right itself. Identifying and monitoring permissible limitations to the right to freedom of opinion and expression at the international level helps to protect the exercise of these rights against possible abusive restrictions at the national level.

- *Article 7 UDHR: prohibition of discrimination:* Article 7 of the UDHR prohibits discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property and birth. States have a duty not only to prohibit discrimination in laws and regulations, but also to take positive measures to guarantee to all persons equal and effective protection against discrimination, including through the prohibition of any incitement to discrimination. Two manifestations of discrimination are relevant to the Information Society. The first relates to discrimination in Internet content. In many instances, websites promote racial or religious hatred, as well as gender bias – including highly abusive content relating to women. This is a topic which deserves careful attention. It involves a complex and sensitive question of balance between the responsibility of the State to prohibit discrimination and the guarantee of the freedom of expression. In this regard, the roles of the State and the private sector need to be be carefully examined and clarified. The second issue relates to discrimination in access to ICTs. In this respect, the prohibition on discrimination sometimes requires States to take positive action to reduce or avoid discrimination. In particular, vulnerable and marginalized groups also require particular attention, as public policies may impose effective bars to equal access to the enjoyment of the Information Society. Finally, it is also important to note that the Internet provides a powerful tool to fight discrimination in society.

- *Article 12 UDHR: the right to privacy:* It is crucial that the right to privacy is protected within the Information Society. Measures need to be placed against unauthorized intrusion of privacy through new and powerful systems of surveillance and personal data collection using ICTs.

  Article 27 UDHR: Intellectual property rights: the Universal Declaration of Human Rights recognizes that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author. However, this right must be balanced with the right of everyone to participate freely in cultural life and to share scientific advances and its benefits. It will be important to strengthen protection against unfair use of indigenous knowledge over the Internet.

- *Article 25, paragraph 1 UDHR: the right to a standard of living, adequate for the health and well-being of himself and of his family:* The realization of this right in the Information Society will ensure that knowledge and information on improvements in areas such as health care, water, environment, housing, and sanitation reaches people through the use of ICTs. It also implies that no one should be denied benefits the

Information Society offers on the basis of the participatory and democratic nature of the Information Society.

- *Article 26 UDHR: the right to education:* ICTs have significant potential for the realization of the right to education, especially with regard to distance learning, within and beyond national borders, and for people in remote and rural areas, and for the empowerment of disadvantaged groups, girls and women. In realizing this right, ICTs may also facilitate networking among individuals and organizations involved in human rights education; make it easier to share information on successful programmes and practices; and provide access to the many human rights education resources available on the Internet..

Specific policy issues

As indicated, the Information Society will, for better or worse, have a dramatic impact on the enjoyment of human rights for all. It is up to officials and civil society to ensure that impact is positive, and is informed by human rights norms. In this respect, there are several issue areas in which this relationship between information and communications technology and human rights is particularly important. They include:

- **Development** Human rights principles are relevant in addressing development issues in the Information Society. It is important to uphold such principles by ensuring that benefits of the Information Society are equitably extended, especially to people in developing countries or countries in economic transition. ICTs can accelerate the attainment of internationally agreed development goals, such as achieving access to health care and education for people living in rural areas.

- **Democracy and rule of law** ICTs have the potential to make government more accessible, to make decision making processes more open and to reduce the distance between authorities and individuals as well as to provide the means for people with similar claims to group together and organize. This helps promote the right to take part in the conduct of public affairs - the basis of a democratic Information Society.

- **Cultural and linguistic diversity** The Information Society is characterized by a "content divide" between developed and developing countries, with an under-representation of local languages, local contents, and local cultures. ICTs can advance cultural diversity and multilingualism through the creation and dissemination of local contents and cultures.

- **Vulnerable groups** To promote the human rights objectives of participation, social inclusion and empowerment in the Information Society, particular attention must be paid to the marginalized and vulnerable, including migrants, refugees, unemployed, children (especially to the issues of the sale of children and child pornography), people with disabilities, the elderly, and people living in rural areas.

- **Trade liberalization** While international trade agreements can help promote access to ICTs, this will not happen a matter of course. Much depends on the extent to which trade policies are linked to the promotion and protection of human rights.

For example, trade and investment liberalization that increase Internet connections for one section of the population but not for others might increase inequalities within and between societies. A human rights approach to the Information Society promotes fair trade coupled with effective international cooperation and regulation at the national level so that the benefits of access to ICTs may be shared by all, including the marginalized, socially excluded, vulnerable, disadvantaged and the poor.

- **Role of private sector** Private sector involvement and activities in developing the Information Society can take place in the framework of the UN Global Compact. A socially responsible private sector can help realize an Information Society that respects human rights.