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**Communication, Human Rights, and The Threat of Weapons of Mass Surveillance:
Why Communication Rights Are Essential
To the Protection and Advancement of Human Rights in the 21st Century**

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Abstract

Communication is an intrinsically fundamental process to our being human. The very defining of our humanity, and our ability to fulfill all of our essential needs and capabilities is dependent upon it. The right to it is recognized in the Universal Declaration of Human Rights, as well as within numerous internationally recognized constitutions and covenants. However, the human rights community - its scholars, practitioners, advocates, and organizations – have devoted insufficient attention to the importance of this process, with real world implications for making possible any truly effective progress in the ongoing efforts to advance human rights, not simply in principle, but in practice. Just as issues of labor lay at the center of the struggle for human rights during the age of the Industrial Revolution, in today's modern mass mediated – and mass surveilled - society, communication and information are integral to this ongoing endeavor. This is because any meaningful protection and exercise of rights within a society are eventually dependent upon power. And as labor defined the agency of that power within the mass industrialized society, in today's "Information Age," the revolution in digital media technologies and networked communication systems has made information and communication the defining nexus point for where real power lies, and how it is wielded in society today. The recognition of this by the human rights community, expressed through the coordination of its efforts with the global media democracy movement, is essential to the successful protection and advancement of human rights in the 21st century.

Why Communication Rights Are Essential To the Protection and Advancement of Human Rights in the 21st Century

Communication – It is not likely to be the first thing that comes to people’s minds when they think of human rights. Often, the use of the term “human rights” conjures up images of suffering inflicted through such conditions as war, famine, poverty, imprisonment, and torture. It’s one that calls to our notions of morality, justice, fairness, equality, legality, dignity, and humanity (“What Does The Term ‘Human Rights’ Mean To You?” n.d.). When we think of the work of human rights, we tend to think of lawyers fighting for justice in the halls of power, or educators working to inform and enlighten, both in the classroom and outside of it. Perhaps we envision doctors and aid workers out on the front lines of human suffering, alleviating the hardships of countless souls caught up in the midst of some of the most inhumane of situations.

Among all of this is a growing awareness of the vital role that mediated communication serves in this effort. Reading the accounts of abuse, hearing the stories of victims, seeing the atrocities through visual imagery, organizing political and material responses to the suffering; in fact, the very capacity for awareness itself of even the existence of these situations and their effects, are all forms of - and dependent upon - communication.

Although there is a growing recognition among human rights advocates as to the importance that media plays as an instrument in human rights work, there remains an often overlooked, or at best underappreciated, understanding of communication’s place within the framework of human rights. Too often the focus is placed upon supporting its role as a tool for advocacy, as opposed to defending the communicative process itself as fundamentally necessary in defining and fulfilling our humanity. Such a defense is committed not simply to protecting the act of communication, or the content of it, but the means by which it is successfully achieved...i.e. access to and control over information, and the mediated networks through which it is communicated. For it is here where lies the most important battleground for the advancement human rights in the 21st century. Recognizing this has profoundly important consequences for the future of human rights and all that they encompass, as this paper shall attempt to make clear.

Communication as a Human Right

Human rights are those rights - universal, interdependent, and inalienable - which are inherent to all human beings, and upon which the ability to live a life free and equal in dignity and equality are dependent (UNOHCHR, n.d.). But where exactly does communication fit into this? When communication *is* included within the various discourses on human rights, it is often conflated with the concept of “expression,” or in the aforementioned use of “media” as an instrumental tool. However, these provide only a limited understanding of communication’s place within the framework of human rights, serving to confuse means with ends, the vehicle of transport with the destination.

There are many different specific definitions among communication theorists and scholars as to just what this most primordial of human activities is (Infante, Rancer, & Womack, p. 7). Underlying all of them, however, is the understanding that it is “necessary for individual expression and for all social organization” (McIver, Jr., Birdsall, & Rasmussen, 2003), and is the manner by which we establish mutual awareness of each other through a process of shared meaning (Infante et al. p. 10-11). Communication defines our very nature as human beings, central to our desire to experience connectivity with others, and is “an essential human need and a fundamental social necessity” (Traber, p. 2).

This is something that philosophers and theologians throughout the ages have recognized as an intrinsic truth. It is expressed in works everywhere from Schopenhauer (1840/1991) and Kierkegaard (1847/1962), to Kropotkin’s (1902/1972) research on the co-operative nature of human beings. It underlies Thomas Aquinas’ discourses on *miser cordia* regarding our inherent recognition of the suffering of others, and intuitive response towards acts of justice in order to alleviate it (The Blue Mug, 2009). It is reflected in Martin Buber’s (1923/1970) writings about humanity’s innate “longing for relations” (p. 77), and in Martin Luther King, Jr.’s (1991) proclamation that we are all “caught in an inescapable network of mutuality” (p. 122), from which personal fulfillment is impossible without the help of others. Or as the Ubuntu culture of Africa expresses it, “a human being only becomes a human being through other human beings,” and that “I am because we are” (de Groot, 2006).

This recognition that “all life is interrelated” (King, Jr. p. 122) is also the foundational basis of humanity’s great mythological and religious traditions (Campbell & Moyers, 1988), perhaps most elegantly personified by the Buddhist metaphor of Indra’s Net, symbolizing the interdependence of all phenomena (Ikeda, 1996). Confucian philosopher Mencius (1963) declares that our ability to connect with others, to empathize and commiserate with them, defines the beginning of our humanity (p. 65). Christian theologian Paul Tillich (1957) asserts that religious faith and experience are themselves dependent upon it (pp. 23-24), while Jesus teaches that communication is itself a moral act (John Paul II, p. 13). It is this interrelatedness of all human life upon which the human right to communicate is founded, its legitimacy springing “from the very nature of the human person as a communicating being and from the human need for communication” (Fisher, p. 8).

Political philosopher Henry Shue (1980) has contended that a right to communication is a basic universal human right, in that its enjoyment is essential to the enjoyment of all other rights (p. 19). This echoes the claims of philosopher Karl Jaspers (as cited in Kaufmann, p. 147) that communication and human freedom make each other possible (as cited in Schrag, p. 203). Jaspers argues that communication becomes an authentic reality when we acknowledge the personal freedom of each other, and when it works to expose those forces which undermine that freedom (as cited in Schrag, p. 204). Such a process can only take place with the availability of open, accessible avenues of communication, and the capability for meaningful information access and exchange amongst all people.

The provision and protection of this right and the capability to fully realize it is now becoming more important than ever, considering that nearly every aspect of our social and civic culture is dependent upon it. Our individual capacity to participate in its shaping and meaning, and most importantly what it represents and who it serves and how, is becoming ever more dependent upon the practice of communication, and in particular mediated communication. This is particularly true in our modern mass technological society, in which entire cultures and subcultures take place today within the realm of mediated communication (Giroux, 2010). It can be even be argued that communication is the basis of human civilization itself, as it is essentially comprised of our shared knowledge about how the world works, and the means and methods of how we understand and relate to each other. This includes communication with our past, as well as among each other in the present. In fact, one can make the assertion that the *very existence* of human rights is dependent upon communication. This is because human rights are social constructs - “human rights are human rights because humankind has decided they are” (Howard, p. 15) - and social constructs are themselves impossible to formulate and institute without the process of communication.

The Inadequacy of Current Human Rights Law In Regards To Communication Rights

It is not that communication rights haven't been recognized within the canon of human rights law and theory, for they certainly have, perhaps most notably and explicitly in Article 19 of the Universal Declaration of Human Rights (UDHR), along with its expanded version contained in the International Covenant on Civil and Political Rights (Article 19, ICCPR). In addition to their incorporation within several internationally recognized treaties and covenants, they can also be found included among various national constitutions (India's comes readily to mind). However, this inclusivity is most often implicit rather than explicit, as the many articles and sections of these human rights documents rarely specify communication as a protected right. And yet, this right is inherent to the fundamental nature and effective exercise of scores of the other rights enumerated within them. The established understanding of human rights as being interrelated, in which no one right can exist and sustain itself on its own while another is being violated (UNOHCHR, n.d.), has been never more true than in respect to the right to communication.

Detailing the prerequisite nature of communication's role within these interrelationships is beyond the scope of this paper, and grounds for more detailed analysis at another time. Nevertheless, even with a relatively cursory look one can find an implicit assertion of the right to communicate embedded throughout most any of the major human rights documents. For instance, communication rights are elemental to the right of assembly and association, and to take part in public affairs (Articles 20 & 21 of the UDHR; Articles 21, 22 & 25 of the ICCPR). They make possible the right to education, as defined in Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 26 of the UDHR, as well as the

provision and protection of worker's rights (Convention Concerning Freedom of Association and Protection of the Right to Organize, 1948; Article 23 of the UDHR). And there is probably no sphere of human rights in which communication plays a more integral role than those of cultural rights. In fact, the very existence of culture is itself dependent upon it (Berelson & Steiner, 1964). Its essentiality is embedded within a range of internationally recognized culture-related rights, including those of language and religion (Article 27 of the ICCPR), as well as that of participation (Article 15 of the ICESCR), involving the right and the capacity to "pass on," to "transmit," to "acquire and share," "express and respond," and "interact" within that culture.

These represent just some of the examples of communication's elementary place within the primary construct of human rights. And yet the human rights community on a whole - its scholars, practitioners, advocates, and organizations - continue to devote insufficient attention to its importance. When focus *is* placed upon communication, more often than not it is geared towards its role as an instrumental tool in advancing rights-based work, such as through the use of evidence documentation, journalistic accounting, public relations outreach, etc.

There is little question that the growth of increasingly accessible media technologies has made the work of exposing human rights violations and abuses through video recording, digital communication networks and various related means, much more of an effective tactic in the struggle for rights and justice. Human rights organizations such as WITNESS, who focus on confronting crimes and abuses by exposing them through the use of technology, embody the successful advancement of these kinds of efforts. And there is nothing at all wrong in devoting attention to this inarguably essential component of rights-based work. The use of media to spur the conscience to action has been an effective means of animating social and political change throughout the centuries. The ability of people to organize effective action through communication is the key variable in determining the outcome of such movements (ArsElectronica, 2011). All of this goes to the heart of Gandhi's (1962) political philosophy, which understood that the key to confronting injustice was not to physically attack it (and thus risk becoming complicit in it), but to expose it. For the movement for equality and human rights was about making the injustice visible. This is why political and social communicators, such as artists, journalists, and intellectuals, are most often the very first to be targeted for either co-option or elimination by oppressive regimes, for they represent the frontline of awareness, both within a society and to those outside of it. It is the major reason why television and radio stations (and in the case of the Egyptian revolution of 2011, the entire Internet itself) are the first targets in coups, revolutions, and counterrevolutions (ArsElectronica, 2011). As one of history's great communicators, Thomas Paine (1778), clearly understood; "When information is withheld, ignorance becomes a reasonable excuse [to avoid responding to injustice]... They see not, therefore they feel not."

This brings us back to the earlier point made regarding the inadequate level of attention among the human rights community on a whole towards the issue of communication, and the central place that it holds in the overall struggle for human

rights. An example of this type of oversight is in the way organizations such as Amnesty International have focused on the issue. For example, as encouraging as were Amnesty's then-director Larry Cox's statements of the organization's intention for putting communication rights at the center of everything they talk about and everything they do (Communication Is Your Right, 2010), AI's signature awards program in support of this issue continues to be one of honoring the *Freedom of Expression*, rather than defending the *Right to Communicate*.

This is not simply a matter of semantics, but denotes a fundamental shift in focus concerning the core issue at hand. Communication, unlike expression, is a social act involving the capacity for mutual recognition, one that necessitates the ability of a second party to receive the information and expression imparted. Expression is a subset of communication, not a synonym for it, and the ability to effectively advance meaningful communication rights, particularly in the realm of accessibility to mediated communication networks, can be hampered by this confusion. Just as the slightest deviation in one's aim can result in the complete miss of an intended target, a lack of clarity in properly identifying the nature and purpose of the right to communication as arguably *the* indispensable human rights issue of the 21st century, will have long term, real world implications for making possible any truly effective progress in advancing human rights practices. This is because communication clearly qualifies as the most fundamental of *basic rights*, which are those rights necessary for the enjoyment of all other rights (Shue, 1980). It is a right well deserving of the kind of prioritization that human rights expert Philip Alston (2005) has encouraged within the human rights movement, for without it, other rights become powerless, to some degree even meaningless. Not only does the culture in which all rights reside within cease to exist without communication, but it is only through mediated communication that a right – any right - is actually secured.

Communication Rights: The Primary Human Rights Struggle of The Information Age

The evolution and progression of human rights principles and practices throughout history have been defined by - and have very often defined - the conditions and circumstances of the eras within which they develop. For example, new standards of civil and political rights arose as Enlightenment-inspired ideals took root in the latter years of the Agrarian Age, finding their globally transformative expression as the animating principles which drove the American and French Revolutions of the late 18th Century (and nearly triggering a similar such revolution in Britain at the time, as well). It was the conditions and effects of the Industrial Revolution which moved labor rights squarely to the center of the ongoing struggle for human rights. From abolitionism to the rise of unions and beyond, these rights even became the foundational basis for the development of entire ideological movements (for example, socialism and communism), ones whose political ramifications continue to have global significance to this day.

And now in today's "Information Age," one defined by the revolutionary expansion of digital media technologies and networked communication systems, we find communication rights, and the associated information rights ingrained within them, thrust into a similar position of preeminent importance. This is because any meaningful protection and exercise of rights within a society are eventually dependent upon power, and in today's modern mass mediated society, communication and information are where the central nexus of power lies. If the work of human rights is to be fundamentally about empowerment rather than charity (thus underlying the very premise of the concept of *rights* as opposed to *privileges*), then it must act in accordance with this essential truth. For the human rights community to ignore this is to seriously risk marginalizing the value and effectiveness of its work.

It should be made clear, however, that this rising primacy of communication rights does *not* replace the essential importance of many of the other rights which came to prominence in earlier times. Rather, they serve to build upon them. Like the composition of a mountain, these new stratum of rights provide further evolutionary formation of both our understanding and practice of human rights, as they continue to evolve through the ages, and through the world's histories and cultural notions of the common good (Ishay, 2004/2008).

The Internet – Ground Zero In The Battle For Communication Rights

There is no issue that more defines the ongoing struggle for communication rights and their preeminent importance to the future of human rights, than that over access and control of the Internet.¹ Its presence has become ubiquitous throughout society, and in many respects essential, serving as the primary foundation for the digital communication revolution underway today.

Whether this revolution represents *the* most important shift in the course of human history is a debatable point, and one best left to academics for another time. What *is* incontrovertible is that it is the most important shift happening *now*, with the Internet serving as the axial point for practically all human knowledge and activity within society today. Relationships are being shaped and defined through it. Society itself has become embedded into it. Almost nothing happens outside some form of contact with it. It is the device by which practically all communication transpires, the matrix upon which we engage in trade, create culture, and participate in civic affairs.

Sir Tim Berners-Lee, the man who invented the computer protocol that made the Web as we know it possible, envisioned its very structure as one built specifically upon egalitarian ideals, its purpose to provide "electronic human rights," its principles founded

¹ Though there is a differential in the specific meaning between the two, the use of the term "Internet" within the context of this paper also implies reference to the totality cyberspace, the infrastructure through which all digital communication takes place.

upon the Magna Carta and U.S. Constitution, and other such rights-expanding documents (Berners-Lee, 2011). Ambassador Philip L. Verveer, U.S. Coordinator for International Communications and Information Policy, sees the Internet as the vehicle by which we are able to manifest our “human right to communicate [our] ideas [and] to secure information” (USA and Europe, 2011). According to Berners-Lee (2011), the Web is now more critical to democracy and free speech than any other medium, providing a communications channel that makes possible a continuous worldwide conversation.

It’s been said that the Internet has led the greatest period of political education among the greatest number of people ever (Goodman, May 29, 2013). For whenever a new form of communication is introduced, one that increases people’s ability to share ideas and information about how the world works, and is beyond the reach of centralized control, the state of humanity notably improves (Goodman, May 29, 2013). According to new media sociologist Zeynep Tufekci (Ulrike Reinhard, 2012), it is because of the Internet that we are moving away from a world where rule is based upon gatekeeping and censorship, and power can no longer readily operate through tactics of divide and conquer simply by preventing people from talking to each other.

What we are witnessing today is an entirely new phenomenon, as the aggregate of all intellectual knowledge from throughout human history is being placed upon the Internet, resulting in a merging of global civilization with the Internet itself (Assange, Appelbaum, Müller-Maguhn & Zimmerman, 2012). This is why efforts by states and private corporations to wield dominate influence and control over the Internet’s infrastructure, and the information that passes over it, has such profound implications for the future of our society and the protection of our rights within it.

Information after all, is power, and the Internet is the modern conduit both to it and of it. These communication networks are not only at the center of power structures, they are the tools for actually creating them and controlling them. As Berners-Lee (2011) warned, control over the Internet “is the sort of power that if you give it to a corrupt government, you give them the ability to stay in power forever.”

This is why the Internet, as the consolidator of what is often referred to as “big data,” has become *the* goldmine to be controlled and exploited for political and economic political advantage. It’s where real power and wealth resides today. It’s why a social networking site like Facebook becomes valued at over 100 *billion* dollars (Watson, 2012). It’s why numerous African countries are being provided whole internet infrastructures from the Chinese, including fiber optic cable and backbone switches, yet aren’t being asked to pay for them in money, but rather in data (Assange et al., p. 49). It is why the U.S. government spends tens of billions every year to track, copy, and store *every* piece of electronic communication from the hundreds of millions - potentially even *billions* – of people’s communications that it is increasingly able to access (Andrews & Lindeman, 2013).

We’re all familiar with Lord Acton’s famous axiom about the corrupting effects of power, particularly that of absolute power. In light of that, what are the ramifications for

the future of human rights and our right to communicate - to say nothing of the fate of global society on a whole – due to these increasing levels of access and control over the global information environment that we are witnessing today, all consolidated among a small cadre of private and state agencies?

It is a situation which demands that we redefine power and force relations in society, for if we do not, “the universality of the internet will merge global humanity into one giant grid of mass surveillance and mass control” (Assange et al., p. 6). This situation is untenable for any society hoping to assert democratic legitimacy in its governance, for no state can rightfully claim a monopoly on both violence *and* information and communication, and still proclaim itself to be democratically representative. A monopoly on the ability to access and impart information, one imposed by the coercive force of state power, makes the ability to form actual, legitimately participatory, democratically-based culture impossible (Goodman, May 29, 2013). And it is this capacity for public participation and accountability in a society, which is essential to the defense and promotion of human rights (M. Ensalaco, Politics of Human Rights POL 333 lecture, January 15, 2009).

Social theorist and technologist Vinay Gupta (2013) has pointed out how the Internet, once a promising opportunity for connecting people, creating new businesses, and expanding our capacity for culture, has today become a surveillance trap. This certainly wasn’t the intention of its inventors, many of whom envisioned it as a way to attain *more* “freedom from being snooped on, filtered, censored and disconnected” (Berners-Lee, 2011), not less. In fact, the very architecture of the Internet is predicated upon such decentralization of power and authority over its operation (Wu, 2010, pp. 197-202).

Yet, in spite of its initial promise in further democratizing the dynamics of power, we cannot be too overly surprised by some of the recent developments unfolding surrounding its use (or abuse, depending on your perspective). Tools of liberation also serve as tools for power to push back. We saw this in Egypt, as the social media platforms which were used to organize protests against the Mubarak regime were the same ones used by the regime to track down and arrest the very same protestors (Gallagher, 2011). As Zeynep Tufekci (Ulrike Reinhard, 2012) has pointed out, the use of new communication technologies may cause initial disruptions to power, but power always responds. For instance, the advent of the printing press gravely wounded the Catholic Church, but the Church adapted and survived (Ulrike Reinhard, 2012).

And now today, the development of the Internet has served to open up practically every dimension of society in a way never before experienced – including to the means for total control...

“The dream of being connected is suddenly dystopic. The virtual commons is more closed than the real one ever was. And it is becoming clearer and clearer that open source technology will not be enough to us. Our social networks have been infiltrated... Totalitarian states around the globe are

waking up to the fact that if you really want to stay one step ahead, you don't suppress communication, instead you empower communication with gadgets and free Wi-Fi and listen in. And now we're all walking around with personal surveillance devices in our pockets, smartphones which we voluntarily fill with every single detail of our lives" ("A New Generation of Whistleblowers," 2013).

Such developments pose an existential threat to the future of human communication, and to our declared right to engage in it "without interference," to "seek, receive and impart information and ideas through any media and regardless of frontiers" (Article 19, UDHR).

The Corrosive Effects of Surveillance on Society and Its Threat To Human Rights

French sociologist Jacques Ellul, in his classic work *The Technological Society* (1964), illustrated the way in which modern mass society becomes dependent upon the very technological processes which simultaneously work to undermine it. Today, the shared instruments used by human beings around the world to communicate with one another - the means by which we create culture, engage and maintain personal relationships, participate in civic affairs, maintain our society, and fulfill our humanity - is being corrupted in ways which threaten the future of democratic civilization. Just as mass production was the defining backdrop for the struggle surrounding labor rights, mass surveillance is rapidly becoming the defining framework for those of communication rights.

Under the auspices of fighting a seemingly perpetual war against an ever-present threat of 'terrorism,' the Internet has become the active terrain of war, and is considered a battleground, part of the "operational domain" of the military (Alexander, 2011). And battlegrounds are the least hospitable of environments for the provision and the protection of human rights and the rule of law (Human Rights and Conflicts, n.d.). The U.S. National Security Agency (NSA), with no legal mandate, and beyond the bounds of American constitutional and international human rights law, has made it its own explicit policy to collect and monitor every single form of electronic communication on the planet (Nakashima & Warrick, 2013). Or, as in the words of NSA director Gen. Keith Alexander, to "collect it all" (Nakashima & Warrick, 2013), mirroring the official motto of the Stasi, the infamous secret police force of the former East Germany - "To Know Everything."

William Binney, an NSA whistleblower who was the research head of its Signals Intelligence Division and one of the principle architects of these surveillance systems, has warned that their existence creates the capacity for a "turnkey totalitarianism," the likes of which we have never seen before (Bamford, 2012). The rapidly expanding and indiscriminate use of these weapons of mass surveillance is destroying the intrinsic

capacity for human beings to communicate and to share information in ways commiserate with our fundamental human rights to privacy, information, and communication. It threatens our ability to maintain our personal dignity and authenticity as human beings, by degrading our right and ability to define and control the meaning and purpose of the lives we live, and the relationships we engage with among each other. It turns our humanity against us, perverting and prostituting our every expressed thought or desire, declared affirmation or repudiation, into potential grounds for criminal investigation, commercial exploitation, or political intimidation.

The NSA is making every phone conversation, every email, every webpage viewed, every purchase made, into a secret government document (Nakashima & Warrick, 2013). Facebook is transforming every personal statement into a public proclamation (Kee, 2013). Regardless of the self-serving announcements made by the creator of Facebook Mark Zuckerberg, that privacy is no longer a “social norm” (Johnson, 2010), “share with friends” is not taken by the users of social media to mean “share with friends, corporations, and the state.” Facebook is also endeavoring to make people’s ostensibly private wall posts on it available to media corporations for potential use in their programming, without even the knowledge or permission of the poster (Kee, 2013). Such forms of “surfacing” (to use the company’s euphemism for this practice) strips people of their inherent right of agency over their own communicative process, agency over who the recipient of that communication is and its intended meaning.²

Zuckerberg and his confederates among the information technology field may feel that people are much more accepting of “sharing” and exposure in today’s technological environment (Johnson, 2010), but sharing is one thing, taking quite another. This calls to mind the repetitive refrain often heard from defenders of these surveillance practices, that “if you don’t have anything to hide, you don’t have anything to worry about.” However, one doesn’t leave one’s doors unlocked, or computer programs without passwords simply because one “doesn’t have anything to hide.” As Vinay Gupta has astutely observed, privacy may be dead to the likes of Mark Zuckerberg, but try telling that to lawyers, doctors and accountants...

“Our society cannot function without professional confidentiality, and having foreign powers be presumed to intercept all communications is simply the end of these professions as we have known them. There’s no trusted advisor to consult with when it’s all ending up in the Utah data center to be consulted in future decades under administrations with unknown political agendas” (Gupta, 2013).

² It’s interesting to listen to a man who created a network for fellow Ivy Leaguers to talk privately among themselves off the open internet, lecture on about how there can be no real expectation of privacy on the internet (Johnson, 2010). Evidence, perhaps, of what 100 billion dollars can do to one’s perspectives on such matters.

Perhaps even more disconcerting are the demonstrable effects that persistent surveillance has on the psychological well being of individuals and societies. Studies have detailed the many distorting impacts that it has on how we think and act (Parramore, 2013). Some have shown that the electronic monitoring of employees increases the levels of tension, anxiety, anger, depression, even boredom and fatigue among workers (Smith, Carayon, Sanders, Lim & LeGrande, 1992). East German society has never fully recovered from the corrupting effects of the voyeuristic interference by the state in the social relationships of its people (Jacob & Tyrell, 2010). Internet research in places like Uzbekistan and Azerbaijan have shown how the presence of surveillance on the Web corrodes the meaning and relevancy of people's communication, particularly as it relates to matters of civic participation (Kendzior, 2012). These studies show that, regardless of the amount of official censorship present, the shifting of "social norms" in respect to privacy expectations has a marked impact on our willingness "to confide, to criticize, to make mistakes, to change our minds" (Kendzior, 2012).

The detrimental societal effects of this kind self-censorship were well-documented by Elisabeth Noelle-Neumann (1974) in her groundbreaking research on what she termed "the spiral of silence." We see its effects in the "perception falsification" that takes place when people fail to express their real thoughts or preferences out of fear of failing to conform to social or political norms (Ars Electronica, 2011). Czech writer, dissident, and later president Václav Havel, argued that the credibility of the entire structure of society itself is eroded by its reliance upon rituals and norms "untested by public discussion and controversy" (Keane, 2000).

When it comes to the destructive effects wrought by mass surveillance, there is probably no more brutal example than that of Ceausescu's Rumania, where truly every action observable would be reported to the secret police (Duque, 2011). In such a society, deliberate deception becomes the key to survival, a trait which quickly bleeds into all other human relations; personal, family, commercial, etc. The true cost of surveillance thus becomes the destruction of society itself (Duque, 2011).

Truth, Power, and the Corrupting Influence of Secrecy

Key to the unraveling of social bonds, and the degradation of people's psychological well-being caused by the persistent presence of mass surveillance, is its subversion of our capacity to trust (Kendzior, 2012). For when we can't trust, we can't get to truth, for trust is by its very definition founded upon truth (Collins English Dictionary, 2003).

Discerning what the actual "truth" *is*, however, can certainly be a matter of contention and debate, as it has been among philosophers and political powers throughout millennia. This is why the legitimizing qualification for a claim to truth is not what the claim is, but how it was come to. In facing our inherent limitations in being able to fully grasp truth in all of its complexity, we sustain our efforts towards searching for it through the understanding that the path towards it "goes hand in hand" with the truth itself (West,

2011). Enlightenment principles of inquiry, reason, and debate become essential to our ability to more accurately determine the reality of the world we inhabit, and the effects our actions have upon it. As communication theorist Jürgen Habermas has contended in his landmark works on the subject, it is only through the processes of *communicative reasoning* (Habermas, 1987) and unrestrained argument (Habermas, 1973/1975) that we are able to achieve a level of mutual understanding regarding the nature of truth. Truth itself can never be imposed, it can only be revealed.

Habermas asserted (as cited by Thompson, 1981, p. 99) that “the condition for truth” is within its capacity for “the potential consent of all others.” And as Habermas’ colleague Theodore Adorno (1966/1973, pp. 17-18) insisted, the processes for determining this “condition for truth” are only valid when they allow for the voices of suffering to speak within them. This echoes the ancient Justinian code’s proclamation that “What touches all must be approved by all” (Pennington, n.d.), and serves as a vital prerequisite for legitimizing how we come to understand truth, particularly within the parameters of human rights. Such methods of communicative reasoning and inclusion are essential in establishing the universal moral norms upon which human rights, as well as those of democratic structures of power, are themselves legitimized (Habermas, 1998).

All of this, however, becomes fatally corrupted by the permeation of widespread surveillance and excessive secrecy throughout a society. It inhibits the ability to better understand the truths about our world and how it works, who and what the real forces of influence within it are, and what the true costs and effects of the policies enacted in it entail. When the attempts to acquire such knowledge become suspect, even illegal, then that society has no hope of surviving, at least not as one claiming to be free under the rule of law, and governed in accordance with the principles of democracy and human rights. For human rights can never be sustained in an environment where the truth of suffering is not allowed to speak, especially when the voice of such suffering would challenge or delegitimize the authority of power within that society. It is at this point in which surveillance and secrecy can no longer be justified as a necessary means for finding or protecting truth, but have instead become methods for suppressing it.

Today in our post-9/11, digitally hyper-connected world, we are witnessing a dramatic expansion of these corrosive processes throughout global society, to a nature and degree that even has former leaders of the Stasi appalled (Schofield, 2013). It is resulting in a complete inversion of the basic structure of what comprises a free society, in that more and more of the affairs of the private citizen are exposed to the so-called public sector of government, while the affairs of government, originally intended to be public, become increasingly opaque. Such lack of transparency inherently creates a lack of accountability, which inevitably results in a lack of justice.

This is because information is the currency of power, and when access to information and the ability to disseminate it becomes skewed within a society, the power over that society invariably tilts accordingly. It is only when the people know the true plans and behavior of the powers that govern over them, that they are able to have

meaningful agency over choosing to support or reject them. It is secrecy, and the role of surveillance in maintaining the imbalance of knowledge that it provides, that creates the conditions for the abuse of power.

The Costs of Secret Surveillance and Why It Must Be Opposed

It has been said that “[You] shall know the truth, and the truth shall set you free” (King James Bible, John 8:32). That may be the case, but it’s helpful to keep in mind Gloria Steinem’s oft noted addendum, “but first it will piss you off” (as cited by Taylor, 2005). And when that “pissing off” occurs among some of the most powerful factions of elite power on the planet, it can cause real problems for the truth tellers. Jesus’ own story is a testament to that. It’s a lesson that Edward Snowden seems to have been attentive to before his exposing of the massive global spying programs being run by the NSA and its partners, considering the unprecedented crackdown currently being directed against whistleblowers (Landay & Taylor, 2013). It seems today that we are gazing through the looking glass of justice, where for instance those who expose the crime of torture are thrown in jail, while those who are actually responsible for the crime are allowed to walk free (Savage, 2013). Such injustices are rarely questioned by a corporately-owned media that is often deferential to state interests (Greenwald, 2011), and whose attention is directed mainly towards the crime of revealing secrets, not the crimes that the secrets conceal (Karr, 2013).

The price for making such revelations may be high, but the costs of ignorance are higher by orders of magnitude. They are the immeasurable toll inflicted upon the thousands who continue to suffer from the effects from the catastrophe at Chernobyl (Buell, 2011), as well as from the bleeding wound that is Fukushima, whose continuing discharge of radiation potentially threatens whole ecosystems (Perrow, 2013). They are the consequences that have, or are going to be, experienced by literally billions due to the effects of oil spills and pesticides, the practice of hydraulic fracturing (or “fracking”), the use of GMOs (genetically modified organisms), the ramifications of anthropomorphic climate change, etc. The debates over these and other matters of existential importance are repeatedly derailed by the manipulation or suppression of valid scientific studies (Oreskes & Conway, 2010), as well as through the propagation of empirically false information by the governments and corporations which profit from the continuation of the uses or practices in question (Jensen, 1999).

We experience the costs of such ignorance through foreign policies dictated by misinformation and public persuasion based on distortions and duplicity, such as with the war in Iraq, or in the ongoing carnage being inflicted in Afghanistan and elsewhere. History is profuse with such examples. Perhaps the most egregious of which was the bad information among national leaders, and the cluelessness among their people about the various deals they had cut among each other, which led to the outbreak of World War I. Sixteen million people died due to lack of information and miscalculation, and for buying into rationales instead of reasons (Joll & Martel, 2006).

And now, the efforts by the U.S. national security state to “own the net” (Drake, 2013), to turn it into a “24/7 panopticon on a vast scale” (Drake, 2013), are destroying the very foundations of what the World Wide Web was designed to be, and the role it was intended to play. Our innate human need to communicate is now seen as a threat, and information no longer something to be shared, but “dominated” (Harris, 2013). The very use of such descriptive terminology, denoting the language of control and oppression, in respect to such a fundamental aspect of our humanity is revealing.

But as communication networks evolve from a “one-to-many” to a “many-to-many” model, authoritarian power can no longer hope to maintain that control by isolating a source of communication and cutting it off. Rather, it relies on “owning the net” through controlling or monitoring every aspect of it (Ars Electronica, 2011). This is accomplished by partnering with the “digital mercenaries” of the corporate world who provide the necessary surveillance technologies (“Spy files”, 2013). These include companies like Amesys of France, who sold their “nationwide interception mechanism” to Khaddafy's Libya, so that he could spy upon the communications of his entire population (Assange et al., p. 40). Apple is another. Besides the company's active participation in the NSA's mass surveillance data mining “Prism” program (Pilkington, 2013), they've patented a system for allowing government and police to block transmission of information, including video and photographs, whenever they like (Farrell, 2013).³ And if the technology itself won't fully suffice in ensuring the desired level of control, there's always the reconfiguring of law, such as what President Obama did with his Executive Order giving the Department of Homeland Security the authority to shut down all civilian communications in the event of an “emergency” (The White House, 2012). Interestingly, this was the exact same authority and rationale exercised by the Mubarak regime in Egypt during the height of the rebellion against his rule.

This kind of commandeering of the Internet by the agents of mass surveillance is compromising the integrity of the relationships we develop and maintain via these networks (Risen & Poitras, 2013), and threatens to turn them into a perpetuating chain of suspicion and self-incrimination. It has gutted any element of personal privacy within email communication, and has forced the closure of internet service providers (ISP) (Goodman, August 13, 2013a). It is why lawyers are closing down what were highly popular legal blogs, and are no longer using electronic communications for any of their professional business (Jones, 2013). The compromising of communication privacy has sweeping ramifications for many such professional fields, including medicine, journalism, and the obvious one of human rights organizations and those who work for them (Goodman, August 13, 2013b).

³ It is somewhat ironic that such Orwellian capabilities are the product of a company that announced itself to the public at large as a player in the world of commercial computers, through the running of a national advertisement during the 1984 Super Bowl portraying the new Apple computer as the tool for smashing Big Brother, not enabling him.

Former ISP owner, now whistleblower Nicholas Merrill, has warned that the government's policies weakening the right to privacy and the right to use encryption is going to cost American cloud service providers upwards of \$35 billion in lost revenue over the next few years (Goodman, August 13, 2013b). This is because the Internet corporations such as Apple, Google, Facebook, Yahoo, Amazon, and Microsoft, are all integral components of the U.S. cyber-surveillance system, and have been exposed for their roles in helping to purposefully compromise the integrity of the entire infrastructure of the global computer network (Naughton, 2003), all in order to secure further advantage in the U.S. government's pursuit of "total information dominance" (Harris, 2013).

The ramifications of this will not simply mean the loss of substantial revenue for major tech firms, but now the near-certain loss of the Internet as the universal network of global communication and civic interaction that we know it to be. In the name of national cyber-defense, the Web will become increasingly Balkanized, its infrastructure divided into a number of geographical or jurisdiction-determined subnets, as societies decide that they need to control how their citizens communicate (Naughton, 2013). We've already seen such closed systems developed in China (and currently underway in Iran; Morozov, 2013), the results of which are disconcerting in respect to human rights. China's social networks have become, in the words of Harvard's Gary King, the means for implementing "the largest selective suppression of human communication in the history of the world" (King, Pan & Roberts, 2013).

It is crucial to note that this electronic censorship in China is not enforced against expressions of criticism towards power and authority, but rather is directed against any communication that has the potential to develop into organized collective action (King, Pan & Roberts, 2013). This bares stark evidence as to the inadequacy of the current reliance upon freedom of expression laws to protect the right of communication, since the right to speak out is rendered irrelevant if there is no corresponding right to meaningfully respond in a politically relevant way. It is why, in the face of these existential threats to the future integrity of our global communication infrastructure, the need for universally recognized rights to communication and information are more essential now than ever.

Communication and Information Rights: The Key To Meeting Today's Human Rights Challenges

There is a growing awareness as to the preeminent importance of these rights within the human rights movement. We see it in the presence of organizations like Article 19 (article19.org) and Communication Rights in the Information Society (crisinfo.org), as well as through dozens of events such as the World Summit on the Information Society Forums (itu.int/wsis) or International Right To Know Day (righttoknowday.net/en). There also seems to be an increasing degree of attention being dedicated to media and communication-related issues among human rights-themed conferences and events, particularly within the field of academia.

However, as has been referenced throughout this work, the focus on the role of mediated communication often falls short, usually including it as another circle within the Venn diagram of human rights issues, rather than recognizing that *they constitute the very existence of the diagram itself*. The frame of discourse has to move beyond the necessary, but increasingly inadequate language of the American First Amendment, or the provisions outlined in Article 19 of the UDHR, which are often used as the aspirational standards in reference to these rights.

We also cannot rely upon advances in the technologies of communication to substitute for its lack of constitutional protections. We must avoid being lulled into complacency by the humanist rhetoric of a contemporary techno-consumerism, one in which the notions of “*empowerment and creativity and freedom and connection and democracy* serve to abet the frank monopolism of the techno-titans” (Franzen, 2013). There is also little need for more evidence as to how the promising potential of the networked world as a means of liberation has been compromised by the cancerous presence of mass surveillance. People using the tools of the Internet are no longer looked upon by their own government as fellow citizens, but as “adversaries” (Ball, Borger & Greenwald, 2013), making the Obama administration’s “rhetoric of the ‘internet freedom agenda’ look as trustworthy as George Bush’s ‘freedom agenda’ after Abu Ghraib” (Morozov, 2013).

This is not to deny, of course, the clear evidence of the impact that these new, networked communication platforms have had on influencing political and social change (Bond, Fariss, Jones, Kramer, Marlow, Settle & Fowler, J. H., 2012). The Arab Spring is often cited as an example of the power of social media in generating such change, though this appraisal is only partially accurate. Something which is deserving of more careful study, is the almost-certain role that such media has played in the transformation of the political landscape over the previous decade in regards to gay rights (Hoffman, 2012), the largest such change in public opinion that has occurred on any non-war policy issue over a similar period of time (Pew Research Center, 2013).

As positive as some of the impacts and effects this increased capacity for participation have arguably been, we must keep in mind that simply providing “more voices” does not necessarily mean more democracy, or more human rights (Ulrike Reihnard, 2012). As Zeynep Tufekci has observed (Ulrike Reihnard, 2012), it is only a matter of time before we have our first big ethnic cleansing aided by social media. After all, we’ve already seen media play a key role in previous such atrocities, like that of radio during the Rwandan genocide (Kellow & Steeves, 1998). Such examples serve as sobering reminders of the real world implications involved in this issue, and why there needs to be a deeper, more holistic, rights-based approach towards how communication takes place in society.

Central to this endeavor is the merging of the human rights movement with that of the global democratic media movement. For there exists today throughout the world a vast consortium of independent media organizations and producers of all types, dedicated to providing people the means for increased civic and cultural participation, through

expanding the understanding of, and access to, the use of media. These include an extensive array of grassroots and community media operations including television, radio, online distribution, etc. They involve journalists, publishers, media activists, and artists of every stripe. It is represented by the growth in organizations such as Free Press (freepress.net) and the Media Alliance (media-alliance.org) among many others, which are dedicated to countering the dramatic rise in media consolidation by states and corporations (and in today's world, those are increasingly becoming one and the same thing), and its effects on our systems of governance.

These efforts, in combination with today's networked digital technologies, represent the emergence of a "Fifth Estate" (Dutton, 2008), a new form of power within society. Its potential for advancing the cause of human rights is substantial. By aligning the efforts of those working to provide the *means* to communicate with those working to establish the *right* to communicate, a powerful global movement can be created. It will be one with the potential to drive forward a vision towards changing society's relationship to how information and communication are controlled and distributed, a goal no more ambitious or impractical than that of the Abolitionist's in changing the fundamental dynamics of the ownership and control of labor throughout the world.

Today, working to sustain the means for more democratic access to the media and information, without establishing the *right* to that access, is akin to working for the regulation of slavery, rather than the banishment of its practice. Like the earlier abolitionist campaigns, an effective communication rights movement must seek to avoid compromising its strategic purpose in the name of achieving tactical gain. After all, the Abolitionists understood that any success in regulating the spread of slavery was actually a setback in their effort to end it, for it provided de facto recognition for its legitimacy to exist in the first place. In a similar fashion, those participating in the lunch counter sit-ins during the Civil Rights movement were doing so not because they wanted a sandwich, but rather to assert their very right to be there, and to have equal access to the same dignity and opportunity as all citizens.

By the same token, will those working for a more inclusive, democratically-accountable media system make the same demands upon an AT&T or a Time Warner, or any governing power, in respect to people's rights to express, to communicate, to inform and to be informed? Will those working for human rights and a more socially just world, no longer be satisfied with simply having access to the means for documenting crimes and abuses, but begin to question why it is often so difficult and dangerous to expose this information to the broader public, at least in a way that might actually entail meaningful, effective change towards addressing such injustices?

In coming to a deeper understanding of the issue of communication, the human rights community must begin to face some fundamental questions about how our information networks are designed, who owns and operates them, what constrictions are placed upon their use, who can use them and for what, who can secretly surveil that use, etc. Will it accept the current status, attempting to align its own principles towards working within the current system of ownership and control? Or will it challenge it, like

the Abolitionists did in regards to the ownership of human labor and its fruits?

Eventually, the questions come down to ones of sovereignty. Who controls our ability to participate and interact in our modern, mass mediated, networked world? Who decides who gets heard, who gets seen, what gets said, who gets to know what, and when do they get to know it? For whoever or whatever wields ownership and control over information in an “information society,” controls that society.

These questions dovetail straight into an entire ecology of communication and information-based issues - net neutrality, press freedom, the nature of copyright and Creative Commons licenses, the use of airwaves spectrum, the funding of community media, the integrity of online encryption - all of these and more become acts in a much larger play, battles in a much bigger campaign - that of securing the inalienable right of human beings to communicate. Such an effort necessitates the transcending of any silo mentalities which may be present in respect to each of these worthy issues, and organizing them within the framework of a single, overarching strategic cause, one whose attainment will profoundly advance the conditions and enablement of all of them.

Concluding Observations

We are at a crucial point in the evolution of our communication infrastructure, as the implementation of the technologies and policies currently taking place are going to shape our public sphere for decades to come. At the heart of all of this is the struggle over the shaping of that the Internet, a struggle as important as that over the political systems of nations, because its fate will determine what kinds of avenues of participation people will have in the future (Ulrike Reinhard, 2012). As Zeynep Tufekci has pointed out, in only a few years time the state of the Internet will be assumed to be the way it is simply because “that’s just the way it is,” when in fact it will only take the shape that it does, and serve the interests that it serves, through a process of tremendous struggle (Ulrike Reinhard, 2012).

This struggle is underway right now, as is evidenced by the efforts of private corporations to control and monetize the content on it (Hurley, 2013), or by the NSA’s sabotaging of it in trying to access literally everything that passes through it (Healey, 2013), or sometimes a combination of both (Stoll, 2013). Yet, whether it is the Chinese government looking to shape it to monopolize political control, or Verizon attempting to monopolize it for economic exploitation (Gustin, 2013), the central challenges remain. Will the primary infrastructure for human communication and all of our collective knowledge be treated as the domain of private interests? Or will it be the central locus of our 21st century commons, in recognition of the fundamental need that humans have for its access and use? As Jared Diamond details in his book *Collapse* (2005), the failure of societies to provide for such commons inevitably leads to their downfall. Working to preserve this space as a public commons will not be easy. Yet, when corporations assert “property rights” in their claims for control over these publicly essential communication

systems (McChesney & Nichols, 2002), it may be helpful to recall that this was the argument slavers used to justify the continuation of their “peculiar institution,” until the Emancipation Proclamation came along and liquidated the largest concentration of private property in American history (Foner, 2013, p. xxxi).

Today, these threats to the foundational integrity of the Internet are being recognized by more and more people for the dangers that they pose to the future of human rights. These include everyone from the man who originally created the world wide web (Berners-Lee, 2011), to executives at Netflix (Roettgers, 2013), to the president of Brazil (Goodman, September 24, 2013), who became the first world leader to publicly and explicitly frame issues regarding communication and access to the Internet within the context of human rights, and to call for new global protections over its use (Borger, 2013). Such protections are necessary because although these networks are global in scope, the laws and jurisdictions overseeing them, and the servers which operate them, are defined country by country. This situation is becoming no longer tenable, due to the global nature of the content on them, and the processes of interaction between them and through them. They require an international response and remedy, much in the same way the crimes of World War II ushered in the UDHR, advancing the principle that a nation’s domestic actions can be a matter for legitimate international concern (“A Short History,” n.d.).

And it is an international response that is imminently required for the challenges facing the world today, many of them of an existential nature, the likes of which we have never before confronted. Climate change, the unabating nuclear crisis at Fukushima, genetically modified organisms and the future of our food and water supplies, rapidly expanding systems of surveillance that outstrip the capacity for democratic accountability; all of these are requiring quick, concerted, collective response on a global level. The ability to openly communicate with each other, to have access to empirically valid information, unfiltered by the controlling hands of self-interested parties, is absolutely essential to our ability to collectively organize rational, effective, and just responses to these issues. These responses must also reflect the Justinian principles of mutual participation within them, in which those being affected by the problems can meaningfully participate in producing the solutions to them.

What this inevitably represents is a enablement of a new form of civic globalism, one that is initiated from below, as opposed to the top-down model experienced throughout the previous century (Ulrike Reinhard, 2012). Such bottom-up participation will only be made possible by the availability of open and accessible communication systems. It is through them where the real promise lies for addressing not only these preeminently important issues, but for establishing the conditions necessary for the fulfillment of *all* human rights practices. Or, to put it all more succinctly, as journalist, artist, and communication rights activist Abby Martin so aptly declared, “We need a communication revolution in order to have a human rights revolution” (Communication Is Your Right, 2010).

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