**Pluralism Protection and Regulatory Authorities in Five European Union Countries and the United States of America**

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This paper presents the results of the first stage of a research project funded by the Spanish Ministry of Science and Innovation (National RDI Plan 2009-2011). The funded study analyses communication policies aimed at protecting pluralism in a cross-media scenario by setting limits on audience reach/concentration. The text provides the outcome of in-depth interviews held with members of staff of independent audiovisual regulatory authorities - mainly board members belonging to the pluralism area of expertise – in five European Union countries and the United States of America: Conseil Superieur de l'Audiovisuel (France), Kommission zur Ermittlung der Konzentration im Medienbereich (Germany), Autorita per le Garanzie nelle Comunicazioni (Italy), Commissariaat voor de Media (Netherlands), Office of Communications-Ofcom (United Kingdom) and the Federal Communications Commission (USA). Conducted between September 2009 and January 2010, the first main objective of the interviews was to gather information about measures being taken to protect external pluralism. In this respect, special attention was paid to policies dealing with corporate, ownership, market and economic-political concentration in the mass media sector. Audience reach or share was also used as a concentration indicator. Secondly, the interviews focused on how the mentioned regulatory authorities assess pluralism policies and what problems they encounter during their implementation. To that end, the following questions were posed: 1. Assessment of legislation on pluralism Have any shortcomings in the regulation of pluralism been detected? What problems cannot be solved by regulation? What are the main conflicts in this field? Is there any debate about the need for or the effectiveness of legislation on the protection of pluralism? To what extent has media pluralism improved with current legislation? 2. Assessment of regulatory authority powers What specific problems do regulatory authorities encounter when setting limits or restrictions to protect pluralism? Have any changes of procedure been proposed or are any expected? Assessment of pluralism 3. How is media pluralism measured/evaluated? How is regulation on media pluralism assessed? What kind of relationships between the protection of pluralism and the existence of a regulatory authority (considering its organisation and powers) can be established? 4. Audience concentration as a pluralism regulating mechanism Has audience concentration been considered a potential threat to pluralism? Is audience reach used as a criterion to assess and protect pluralism? How is it measured? Has audience reach been considered as a policy criterion to protect pluralism? As a result of the qualitative analysis carried out after the interviews, this paper provides answers to those questions. It therefore contributes to the identification of the mentioned regulatory authorities' assessment and perception of media policies, particularly those referring to the protection of pluralism.

**Legal and Political Peculiarities of the Development of Digital Terrestrial Broadcasting in Russia**

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Plans for the introduction of digital terrestrial broadcasting in Russia are based on international accords such as the Regional Agreement GE06 (Geneva 2006), which is a binding international treaty signed by national administrations and registered with the United Nations. This Agreement served as a stimulus for adopting national policy in the switch-over to digital broadcasting. In the words of the President of Russia the challenge of making the transition to digital broadcasting is a problem of technological breakthrough. It also links well with the work on the nation's technological development and innovation policies. Russia advances towards digital terrestrial broadcasting but in a tranquil way. The advent of digital television and other new services and technologies has recently accelerated the elaboration of regulation and related processes. This development could point to future changes that might go beyond merely adjusting the legal framework to digital technology. Whether it will lead to adequate legal regulation and thus the setting of transparent parameters for technical advancement, whose absence has been a major problem so far, remains unclear. The domination of state-run broadcasters and state-run telecom operators is an important feature which triggers fears that the places on the first three terrestrial multiplexes may be allocated, without any competitions and public discussions, to incumbent players favoured by government policy. The economic crisis complicates the perspectives for attracting both public and private investments in this segment of the economy. This might cause either the collapse of hundreds of regional broadcasters facing the high cost of the switch-over to digital TV or lead to the preservation of analogue broadcasting in the central areas of Russia. As a result, the pluralistic and manifold programming and information promised in the concepts of digital television may not materialise.

**Press freedom in the digital era: online watchdogs put to the chain?**

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In a century where virtually everyone has the tools at his or her disposal to produce news content autonomously and to make it available online for a large audience, the universal right of freedom of expression flourishes more than ever before. The advent of the internet caused a boost of creation and information amongst professional as well as non-professional news content producers. This evolution has been welcomed by some, stressing the added democratic value and regretted by others, pointing out the decrease of quality of news content that can be found online. The aim of this paper is to target the worrisome trend of growing attempts to censor news content passing through digital networks. Despite the historical roots and the international legal recognition of freedom of expression and of the press, we can observe a growing strained relationship between the right of a journalist to report freely and inform the audience of matters of general interest on the one hand and the protection of general interest (e.g. public security) and the rights of others (e.g. right to privacy) on the other hand. It goes without saying that the freedom of the press has its legal boundaries, regardless of the techniques used. Violations committed by the press via print and audiovisual media are subject to the same rules, most of the time enshrined in national legislation and influenced by divergent press cultures. The digital news context with its international, fast and hybrid characteristics however, challenges these rules. Journalists and online intermediaries involved in the process of news production, are put under pressure by public and private parties to withdraw content upon receipt of a complaint or to provide data information revealing the identity of the alleged offender. In this paper we will take a deeper look into recent facts (e.g. Google's statement to leave China) and case law delineating the phenomenon and make a critical analysis of regulatory steps that have been taken on a European level to tackle the issue of online censorship.

**Transparency and Freedom of Information in the Muslim World**

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Islam is amongst the first religions in the world which stressed the concept of transparency and accountability in governance. Holy Quran directs Muslims to be open, fair and ethical in all their dealings. The Scripture as well as the Sunnah of the Prophet come very hard on bribery, corruption and other such evils which grow under the veil of secrecy. This culture of transparency and accountability prevailed during the earlier period of Islamic state. The height of this phenomenon was when a commoner had the right – and courage – to demand explanation from the most powerful Caliph, before the assembly of Muslims, about an additional sheet of cloth that he was wearing while rest of the people had one less than his! However, in due course of time, this culture of transparency was replaced with that of secrecy in most of the Islamic societies. In the modern era, the 'Right to Information' has been accepted as a fundamental human right by the United Nations. Accordingly, several countries in the world have enacted legislations to facilitate their citizens an easy access to government-held information and records. This has resulted in greater transparency, efficiency as well as eradication of evils of corruption, favouritism and nepotism, particularly in those societies where freedom of information has been effectively enforced. Presently, about 57 countries in various parts of the world have majority Muslim populations. An estimated 1.3 to 1.5 billion people – which constitutes about 22 percent of entire world population – adhere to Islam as their religion. Barring a few oil producing countries, most of the Muslim majority countries are poor and underdeveloped. This is evident from the fact that collective GDP of Muslim majority countries is less than five percent of global figure, which is still going down. Today, at least six poorest of the poor countries are the states with Muslim majorities. This dismal state of development and prosperity is attributed to high degree of corruption rampant in most of the Muslim societies, where political, civil and military elite eats up major chunk of resources due to absence of transparency. The paper would take stock of state of transparency and freedom of information in the Muslim majority countries with particular reference to the legislation enacted and effectiveness of the mechanisms evolved in this regard.

**Exceptional States? The Press and the "War on Terror"**

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The expansion of executive powers in the U.S. following the September 11, 2001 attacks in New York City were accompanied by the loosening, and in some cases, abandonment of the rule of law, civil liberties, and human rights, protections long held to be basic tenets of liberal democracy. The Bush Administration justified the expansion of executive powers by declaring a state of emergency, which underwrote the suspension of the writ of habeas corpus, the trials of suspected terrorists by military commissions, the violation of international torture laws, the detention of "enemy combatants," the passage of the US PATRIOT Act, and the government's illegal wiretapping program. In addition to violating basic human rights, post-9/11 emergency measures were directed at controlling and stifling public discourse. State tactics included a massive effort to classify documents, pressure campaigns targeted at media workers and outlets critical of Bush Administration policies, crackdowns on the spaces of dissent and protest, and restrictions on media access to public and political venues. These events following that attacks have been described by scholars, such as Giorgio Agamben, Antonio Negri, and Mark Danner, as occurring within a "state of exception." Agamben describes the state of exception as "not a special kind of law (like the law of war); rather, insofar as it is a suspension of the juridical order itself, it defines law's threshold or limit concept." Agamben argues that while a state of emergency is theoretically temporary, an exception to the norm, the state of emergency has become a permanent method of governance in modern societies, threatening to dismantle democratic processes and revealing authoritarian tendencies in the contemporary politico-legal system. As the state of exception is presented as a new paradigm of governing, this paper aims to investigate the utility of the concept for describing the changes in media and public processes after

the September 11th attacks, focusing on the failure of the dominant U.S. news media to critically investigate or question the Bush Administration's pursuit of war in Afghanistan and Iraq. The key questions this paper addresses are: If the state of exception is a new form a rule that is transforming social, political, and legal relationships and processes, how are these changes manifest in communication and media practice? Can the exception explain the mainstream U.S. media's complicity in George W. Bush's march to war? And if so, what are the implications? This paper attempts to address these questions through a historical analysis of changes in newsroom practice following September 11th, including examples of self-censorship, media personnel firings, and changes in protocol. These changes are supplemented by a synthesis of analyses examining media content following the attacks, including key global events such as the war against Afghanistan, the U.S.-U.K. invasion of Iraq, and the subsequent "War on Terror." These practices are framed within the larger social nexus of which they were apart, including increased public approval of the government and government institutions, high levels of patriotism, and a financially distressed private media system

**Anti-Terrorism and the Globalization of Communication Law**

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One of the least discussed but most influential processes by which communication law is becoming globalized is legal harmonization, the establishment of laws and regulations that are like each other across states irrespective of differences in legal and political systems. This process, also known as policy convergence, policy transfer, and legal globalization, is not new, but it has been growing in importance for the past several decades. Since 9/11, anti-terrorism efforts have accelerated the globalization of communication law through harmonization by providing motive, content, and transfer mechanisms. The impact of anti-terrorism laws on communication appears in expected and familiar domains, such as a chilling of free speech. The influence of such laws is more pervasive than might be expected, though, appearing also in such areas as the design and regulation of cell phone systems as a tool of antiterrorism and the transformation of film piracy into an anti-terrorism problem. The most important and enduring consequences of anti-terrorism laws, however, are at the constitutional level, where a transformation of law-state-society relations provides a variety of justifications for abrogating fundamental national and international legal principles. This paper will examine the processes through which anti-terrorism laws contribute to the harmonization of communication law; explore the effects of anti-terrorism laws on both texts and practice; identify the limits of legal globalization processes; and analyze the short-term and long-term implications of these developments for communication law at the national, regional, and international levels.

**Professional Journalism and Media Freedom under the State of Emergency in the South Asian Nations**

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Promulgation of the 'State of Emergency' aims to overcome political impasse is a common tradition in the South Asian nations. Governments of Bangladesh , Nepal and Pakistan in recent past imposed the State of Emergency (SoE) aimed overcoming so-called political stands off by withholding fundamental rights of the constitution in their respective countries. Controversial stands of the government and inadequate clear-cut explanation of laws, media communities understand that legal matter doesn't depend on individual's fancy as long as the emergency rules exist, thereby creating a certain rule of restrictions on them. Both the print and electronic media thus faced legal and violent intimidation by law enforcing agencies, particularly by the military intelligentsia in covering the political event as part of their professional duty. Media practitioners also faced attacks, strong censorship, harassment and displacement when they were covering human rights, good and accountable governance issues. Though it varies among these countries, journalists are protected under national and international laws and

agreements and there are rules and laws that those who violate these must be held accountable and prosecuted. But the military personnel got an amnesty by the political parties aftermath the crisis and hardly faced prosecution for their dealings with the media during the SoE. Examining the existing laws, constitutional provisions relating to media freedom of Bangladesh, Nepal and Pakistan and practice of the freedom of expression by the media professionals during the period of SoE through a qualitative analysis this paper has found some similarities and divergences among South Asian nation's media in facing the emergency situation and recommends strategies in facing legal and unanticipated intimidations during the SoE to protect citizens' rights in their respective nations.

**Media Policy Dynamics in Morocco's Democratic Transition**

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A core assumption of much of the literature on media in developing countries is that a more independent press with greater freedom will make a positive contribution to political change. In Morocco, a democratic transition started in 1997, when the opposition socialist party came to power and led the government. The new government's mission was to enact political reforms that aimed at promoting human rights, civil liberties, an open and pluralist media, and at establishing the rule of law. Using Morocco as a case study, this paper examines the interplay between media policy, media institutions, and the government. To evaluate the nature of the political role of media in democratic transitions requires close scrutiny of three major factors: the legal, the economic, and the political environments. This paper first examines the media policy as enacted in the Constitution, the Press Law, and the Audiovisual Communication Law. Second, the paper provides a careful and detailed examination of the economic and political environments and addresses the issues of ownership and the degree of political control over the content of news media and the government's tendency to use media policy to limit the media's ability to operate. One important outcome of this research is that it will help determine whether Morocco's democratic reforms are meaningful reforms, or just empty attempts to pacify domestic and international public opinion.

**Untold Stories: Citizen Journalism in Algeria**

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The main purpose of this study is to examine the notion of Citizen Journalism with all what it represents for professional journalists today in a defined sociological and cultural context which is North Africa and the country chosen Algeria. Further will this renovative conception be studied within a legal perspective, i e how citizen journalism deals with the law; constitution, decrees and other juridical texts which regulate the media professionals in Algeria? In order to understand the climate this journalism genre develops within. Discussing the different difficulties and challenges that these texts represent for working with citizen journalism is an other aspect that this study is striving for. Citizen Journalism is rather a new concept which have been the object of numeral studies these latest years. Most of time, the studies are directed in western countries. Therefore, it was naturally to choose a country which is outside the western world, to explore these unknown fields in search of new perspectives. Theoires which will be used in the book is taken from some of the actual researchers in the field of Citizen Journalism such as Mark Glaser who wrote "Your Guide to Citizen Journalism". MaTamara Witschge, Lasica, J. D. or also Mary-Rose Papandrea who wrote "Citizen Journalism and the Reporter's Privilege." The choice of Algeria comes obviously since it is a developping country where the journalist stuff suffered a lot in doing their job during the black decade of terrorism of the 1990's. Where journalism is nearly controlled by the states instituions, the army, the police and the up officials in the government. The radical islamist movement of the FIS which was in armed conflict with the state threatend many journalists accusing them for being biased and about taking position for the benefit of the governemnt and againt their clandestine

combat. The results where catastrophic; journalists are murdered almost regulary, the islamists blame it on the army and vice versa. The famous formule of "Who is killing who?" will, henceforth include crime against journalits as well. Fortunately, things have changed these latest five yeras and security for both citizens and journalists have improved greatly. The staggerring smell of lacrymogenes, and the dark smoke of incendies and bombs in the crowded streets of the great capital Algiers have let place to a clear air degaging the blue sky which gives the capital her most beautiful face. In this climate debating citizen journalism can be more than the most convenient. The method of work will be an observation survey which be held out to professional journalists, to editorial members of five newspapers. As long as time permit it including the editorial of two radio stations. The survey will be composed of two parts. The first part is treating the definition of the Citizen Journalism, its nature, purposes, advantages. The second part will seak to find answers about dealing with the constitution and the law texts. The second part of the method is to supply interiews with the leading editors in chief, discussing and reflecting on the role of citizen journalism, the actual obstacles, the routines of the editorials, the sociocultural context and least but not last reflections about the law, information sources, dealing with the natioal institutions, the police, the national organizations and företag, politicical organizations and the rigt to get information and to inform the public sphere. Offentlighetesprincipen och meddelarfrihet. The results will be presented as a reflection in an essay form. It is necessary to have the possibility to debate and reflect on the results which will come out such a study. The actors which are involved will tell a true story. where the science could not give exact answers. The experience remains the best alternative.

**Old British Rules, Modern Israeli Implementation:The case of the Military Censorship in Israel**

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The state of Israel was born in 1948, and on the day the last British troops left the new government adopted, for an interim period, the laws of the British mandate to avoid a legal vacuum. Among these laws where the Defence (Emergency) Regulations (1945) that established the military censorship mechanism, that enabled the British authorities to exercise control over the Jewish and Arab press in Palestine. More than sixty years since the establishment of the state and the development of a democratic regime these regulations are still part of in the written law. The questions we ask are: How that phenomenon can be explained in a modern democracy? Why such reminiscence of the British Mandate wasn't removed from the law book? Can the Israeli example serve as a case study to other democratic countries in a situation of war? The examination of the history and functions of censorship in Israel since its establishment to these days indicates that the implementation and imposition of the military censorship is not according to the written law but as a joint and consensual initiative and arrangements by the political and media establishments. The arrangements make the Israeli censorship a unique phenomenon among Western democratic states. Even though Israeli censors were educated on the heritage of British Blue Pencil, the modern Israeli censorship does not fully resemble to the British home censorship during the WW2 or to the D notices system that was practiced later. In short: the Israeli military censorship is a modern variation based on and anchored in old British tradition.

**On Trial: Effects of Media Reports on Judges and Prosecutors**

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Since several years, social scientists, lawyers, journalists and defendants complain about the influence of media coverage on criminal proceedings. A summary of research reveals that media coverage has an effect on the degree of the penalty; however, it doesn't explain the origin of this effect. Although no studies have provided

answers to this specific question, several reasons can be offered. One reason is that researchers have generally ignored differences between media effects on the protagonists and non-involved observers: almost all laboratory studies have tested their hypotheses based on surveys of college students, who, unlike prosecutors, defense lawyers, jury members, and judges, are usually personally unaffected by trial coverage. This point is important because people who are directly involved in a trial which is covered by the media are exposed to specific conditions that influence their behavior. The present study explores media effects on protagonists in criminal proceedings and – as a consequence of court decisions – on defendants. It is based on an online survey of 447 judges and 271 prosecutors in Germany who report their cognitive and emotional reactions to media coverage and their observation of effects of media coverage on other participants in the courtroom. The basic findings can be summarized in seven statements: 1. Judges and prosecutors tend to follow media reports dealing with trials they are personally involved in a more intensive way compared to trials they are not involved. 2. Nearly one third of the respondents got criticized by the media in a way they could be personally identified. 3. Almost half of the respondents became annoyed when they were criticized in media reports. 4. More than two thirds noticed that media reports had an effect on laymen's behaviour in the courtroom. Almost half of the respondents reported effects on defence lawyers, less than two-fifths noticed effects on members of other professions. 5. More than two thirds of the respondents reported an effect of media coverage on the atmosphere within the courtroom and on witnesses' testimonies. 6. A small minority stated that media reports influenced the decision whether the defendant was guilty or not. 7. Almost one third of the respondents reported that media coverage occasionally influenced the length of sentence, one fourth stated that reports had an effect on a release on probation. Only one in ten said that reports influenced the decision of preventive detention. Based on a structural equation model, the influences of the type and use of media coverage on emotions and cognitions of judges and prosecutors have been analyzed. These findings can be summarized in three statements: 1. The more intensively that judges follow media reports on trials in which they are personally involved, the more they get annoyed and the more they perceive media effects on profession-members. These two latter factors additionally influence respondents belief, that media reports also have an effect on the length of the sentence. 2. It's not the perceived strong media effects on laymen influencing the respondents' behaviour but the rather weak perceived effects media has on profession-members. 3. The direct effect media has on respondents also has an indirect effect on the defendant via the length of the sentence. However, no statement can be made whether the defendant benefits from this effect or is harmed by it. The findings are discussed with respect to the rights of the mass media, the rules of criminal proceedings and the interests of defendants.

**Public interest, journalism and defamation law**

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Public interest is a term that is frequently encountered in defamation law decisions. Journalists also make reference to the term as a justification for publishing information that might cause offence. In fact, the Media Entertainment and Arts Alliance (Australian Journalists' Association) Code of Ethics states that an overriding public interest can justify a breach of industry standards. Notwithstanding the popular use of the term "public interest", there is little consensus about what is public interest prompting scholars to describe it as a "conceptual muddle". This study seeks to develop a schema by which to aid journalistic understanding of public interest. Using Abbott's notion of professional jurisdiction (1988), this study interrogates inter-professional understandings of public interest by comparing and contrasting how the occupational domains of journalism and law make sense of the term. This pilot study focuses on Australian defamation law, which seeks to give effect to sometimes competing private interest of protecting reputation and the public interest of giving effect to freedom of expression. The study aims to identify similarities and differences between judicial and journalistic understandings of public interest as revealed in public documentation and decisions or determinations. It does this by: • Mapping the conceptions of public interest that inform judicial interpretations of defamation law through a textual analysis of key defamation decisions. • Mapping conceptions of public interest underpinning journalistic practice by undertaking a textual analysis of industry standards and interpretations of public interest

contained in codes of ethics and codes of conduct, regulatory body adjudications and findings. • Comparing and contrasting these categories and making recommendations about similarities and differences in interpretation of "public interest".

### Two dogmas of liberalism

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Two dogmas of liberalism: "Ownership matters" and "market prevails" Liberal1 democracy rests upon two pillars: 1 societal organisation should be built upon the maximal freedom of every citizen and 2 people's rule should be built upon equal, legally protected free elections. Liberalism in the economic life also has two principles – or dogmas, transferring the term from Lars von Trier's approach to film production, aspiring at a certain kind of "naturalness". Dogma 1 Ownership of property is the driving natural force of economic development and building wealth. Dogma 2 Markets of purchases and sales should be as free, natural, and unhampered by interventions as possible. Liberalism as a political philosophy or ideology (in a non-pejorative sense) rests upon the idea that economic liberalism is the best way to organise economy in order to further liberal democracy. A more extreme variety of liberalism holds that liberalism in the economy is a necessary condition for liberal democracy. Rarely however it is meant that liberal economic life (free market economy) is a sufficient condition for liberal democracy: it is generally acknowledged that also authoritarian or dictatorial regimes could be upheld in market economies. Moderate liberalism thus usually recognizes the possibility of a lower degree of market mechanisms to prevail under a liberal democracy. Legislation on ownership and control of media property, material and immaterial, is for a large segment of production and distribution, in the private sector, built upon the philosophy of Dogma No 1. Legislation on market conditions, competition and interventions by public authorities, or the political sector, is largely dominated by Dogma No 2. My aspiration in this paper is to show how these two dogmas – taken in their original and true sense are only subscribed to as a lip-service or "double talk" in most legislation and policy-making of liberal democracies. A sincere and radical confession of the faith in the two dogmas would actually and necessarily lead to much more vigorous policies and regulations in consequence of constitutional principles of the importance of ownership and a free market for a liberal democracy. A complex interplay between law-makers and actors in the markets of communication calls for a much more conscious and "dogmatic" application of principles for safeguarding and restoring plurality of ownership and competition conditions in the field of cultural production, pre-eminently the media structure.

### "Self-regulation", "co-regulation" or rebirth of "command and control"? In search for a model of media regulation in Poland

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Technological development, increased competition, convergence and the transnationalization of communications have had a huge impact on the sector of mass media and its regulation. Media policy started to require diverse action taken by diversified institutions to such extent that the classic term of "command and control" regulation was replaced by that of "weak state" and "governance" more broadly. A couple of different studies conducted over the last 20 years have already tried to identify mechanisms of self-regulation, and co-regulation (regulated self-regulation) in the sector of mass media. Most of them have been found in the field of advertising, protection of minors, public service media, codes of Journalistic Conduct and Internet activities. Alternative forms of regulation in Europe have also been defined by documents from the EU, encouraging member states to accept this kind of solutions. However, one of the most important roles in the process of shaping media legislation and a key success for self- and co-regulation is still national media policy and regulations coming from the state. Therefore, there are many differences between European states in the level of regulation of media systems. Governments and political elites in some Central European countries have been concerned with gaining more

power over the sector of mass media than to create conditions for alternative forms of media regulation. Despite the fact that codes of Journalistic Conduct have been adopted in seventeen post-communist countries, the mechanisms or the bodies that would police their implementation are still missing in many of them. Some previous studies on alternative forms of media regulation, including "Final Report Study on Co-Regulation Measures in the Media Sector" (Hans Bredow Institut for Media Research at the University of Hamburg, 2006) have already shown that Poland might be defined as one of those countries where it is extremely hard to find many instruments of co-existence of state-regulation and non-state regulation. Moreover, many of current research on that field has led to the exclusion of Polish media system in comparative approach. The main objective of this presentation is to further examine current media legislation of Poland beyond traditional and alternative forms of regulation. One of its main aim is to identify if there are any institutional instruments and mechanisms which may support accountability and authority of Polish mass media. Furthermore, the article will discuss distinct attempts to identify key factors constraining political system, media ownership and journalistic culture which may be responsible for some obstacles and problems in the introduction of alternative forms of media legislation. Is there a special Polish model of media regulation? What are the perspectives for the future?

**National Broadband Planning, Market Liberalism and Content Provision: Regulatory Reforms for Citizenship?**

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Planning for the systematic upgrading to 'superfast' broadband networks has emerged as a key communications infrastructure in many countries throughout the developed world. Nations such as Australia, China, Greece, the EU, the UK, the US and the Russian Federation, now have programs underway to pave the way for their information societies/economies. These range from specific legal stimulus interventions in response to the global financial crisis such as the USA's American Recovery and Reinvestment Act (ARRA) 2009 and the FCC's National Broadband Plan; to Australia's nation-building infrastructure, the National Broadband Network set up through the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009; and other nations' Information Economy policy responses, as seen for instance in the UK's Digital Britain. These governance processes combine centrally directed state measures with laissez-faire market or civil society organisation components. In some cases we are witnessing the kinds of arrangements typically encountered when governments pursue capital works initiatives in collaboration with privately controlled corporations. In this sense broadband networks can be another instance of 'public-private' infrastructure partnerships, just as governments have constructed joint arrangements for the ubiquitous supply of telecommunications, transport, electricity, gas and water. Yet media and communications systems are simultaneously cultural industry sites that often represent a profound culture-economy disconnect. In such systems, because they culturally distribute 'public goods' that work to shape peoples' deliberation and participation in society, there is the tendency for conflict with the defining features of market liberalism (Keane, 1991). This dual life of media and communications systems, as both economic input to key infrastructure and foundational to political democracy is frequently highlighted (McChesney, 2008). And as is often argued, media and communications are not simply 'just another business' (Shultz, 1994) when it comes to the provision of media content such as news and information. Other recent examples of the marriage of governments and markets do not inspire confidence: the centrality of governments and policy has become very visible in the global market system more generally. Globalisation and WTO processes can be seen to benefit powerful transnational corporate players, with less evident gain for other stakeholder interest groups within nations. How is nation-state planning for new broadband networks that works closely with commercial interests likely to articulate those regulatory reforms for content provision that arise as legacy systems subside and new convergent media systems flourish? Which structural priorities are embedded in the planning statements for the development of national broadband systems, and can we make any assessments of the likely policy consequences for content provision by forms such as IPTV? In particular, the paper highlights examples of those traditional laws and regulation governing content provision for

citizenship building (including media diversity, local content, 'must carry' and fair use requirements) that will be placed under pressure in the mainstreaming of national broadband networks.

**To regulate or not? Content management on high definition television**

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During the last decade, with the transition to digital television, broadcasting and content industries have called for regulators to limit the reuse of content broadcast on digital television. Initially, debates were most prominent in the US with its 'broadcast flag' proposal. The debates have returned recently in the UK in relation to high definition digital terrestrial television. However, regulation in support of technological controls has not been the only avenue pursued. There has been a parallel trend of using private law—particularly trade mark and contract law—to achieve forms of content management. Drawing from policy documents and interviews with key UK television players, this paper explains the twin avenues that have been pursued in relation to the management of digital television content. Key arguments can be seen in the historical debates surrounding the broadcast flag in the US. The industries' basic claim in support of regulation was that high value content would be withheld from terrestrial television broadcasters. Unless regulators acted, the content would only be made available for other platforms, such as subscription television, where its use could be more tightly managed. At the same time, public interest groups called for different forms of regulation to safeguard existing forms of television public service. Each group argued, in quite different ways, that without regulatory intervention the cultural, political and economic roles played by broadcast television in the second half of the twentieth century would be lost. It seemed little noticed that the loss might happen in any event. Even though trade mark protection and related avenues have been used successfully in some territories to limit the functionality of digital TV equipment, calls to regulate have recurred. The most recent example involves high definition broadcast television in the UK. The situation has some resemblance to the earlier US broadcast flag, but differs in at least three ways. First, the UK example has been dominated by the world's largest public service broadcaster, the BBC, although the demands of Hollywood studios can still be heard 'off stage'. Second, the call for regulatory action is framed more explicitly in public interest terms—the interest in the continued development of UK free to air television services available to all. And third, it attempts to deal with concerns about restrictive content management, in part through a less interventionist form of regulation. The examples in this paper illustrate new avenues for regulation, technology and television. In the absence of action by regulators, the industry has used technical mechanisms and standards, supported by private law. That approach, however, can call into question the very role of public regulation. This makes the recent UK experience particularly interesting, as it attempts to support a concept of the public in the future of audiovisual media.

**Online information revelation and privacy. Moving from opt-out to opt-in?**

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On the 9th of December, Facebook CEO Mark Zuckerberg (2009) announced a round of upcoming changes and new privacy controls for information sharing. The new set of privacy controls was designed to help simplify the site's notoriously confusing privacy options. The users can now control who gets to see each individual piece of uploaded content and the privacy page was simplified by changing the controls to permit sharing with three groups: "only friends", "friends of friends" or "everyone" (e.g. Kincaid, 2009; Perez, 2009). According to Facebook (2009), this should resolve the problem of privacy settings being buried in a series of complex menus.

However, alongside the adapted privacy controls Facebook also rolled out a "Transition Tool" that promoted "Everyone" updates as the new default setting. Several organisations criticised Facebook's new approach to privacy, namely pushing members to share more personal information with "everyone" (e.g. Beaumont, 2009; Kirkpatrick, 2009; Lavrusik, 2010; Ostrow, 2009). Consequently the question arises why Facebook is providing its members with opt-out choices, rather than opt-in? Has society become less private or is Facebook pushing people in that direction? Is public sharing the new "social norm", instead of personal privacy? Is online privacy only an illusion anyway? In our paper we examine these questions from an integrated social scientific and legal approach. Firstly, we elaborate Facebook's privacy policy and the user's reactions on the recent changes, not only using online comments, but also the final results from the IBBT research project CUPID (Cultural Profile and Information Database). In this research project an interdisciplinary consortium searched for innovative ways to aggregate, personalise and distribute cultural content in order to give end users a rich cultural experience but with a maximum respect for their privacy. As a result, the user creates a personal cultural profile that can be used as a tool to receive personalised event recommendations from cultural institutions. This process of profiling and recommending eventually aims to reduce the abundance of online cultural information. Secondly, the results of different focus group conversations and legal research, performed within the CUPID-project and both focussing on privacy especially, are used to reflect on the possible opportunities and risks of the CUPID-model. In the CUPID- model, the user is given the opportunity to manage and control the personal information about his cultural participation and to opt-in on various services, if desired trough the use of OpenID. Apart from questions raised by the use of profiling for personalized recommendations, the use of OpenID too raises specific questions about the privacy of the user. Although end users certainly experienced getting recommendations, being surprised with unexpected cultural events and making use of automation as an added value, they also indicated privacy as a bottleneck affecting the degree of openness while sharing personal cultural information and the willingness to share the received recommendations. The pros and cons of opt-in and opt-out are discussed, together with the positive and negative consequences of integrating OpenID.

**The Mexican audiences' human right to communicate**

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There is a consensus about everyone have inherent human rights independently of their race, color, sex, language, religion, nationality, economic position, opinion or any other condition. These were proclaimed in the Universal Declaration of Human Rights (UDHR) in 1948. It is based in principles as freedom, equality and justice. It was proclaimed with the intention that all people would have the possibility to be a life with dingy and to be happy. In other sense, the Declaration is an instrument to obligate the States to guarantee the social welfare. One right that is recognized in the Declaration is the right to freedom of expression, which is considered in the 19th article. It refers about the freedom of opinion and the right to receive and disseminate information through any media without interference and regardless of frontiers. However, currently we can observe how the access to the media is just for someone. For this reason in 1969 Jean D´Arcy began to talk about one right more extensive, the right to communicate. This author considered that the right to communicate should include the concepts of access, participation and the flow of the information in two senses. Since the Hammelink (2003)* perspective the right to communicate is very important, because the communication is basic for the social organization and for a democratic system. The human right to communicate implies a lot of aspects that are not recognized in the regulation yet. One of them refers to the definition of audiences as active subjects -which implies that citizens have access to the Media, not only as spectators, but as creators-. The audiences have an important role for democratizing the Medias and for this reason is important their recognition. In the case of the Mexico the Medias panorama is complicated. The television is concentrated in two principal companies Televisa and Tv Azteca, which have about 70 percent of television audiences (Ibope report, 2008)**. It doesn't permit the broadcasting diversity and the audiences´ participation. In other way, the audiences don't have an explicit recognition. There are two main laws that refer to the audiences, not directly, but one of them mentions the rights of the citizens and the other regulates the Medias. These are The Political Constitution of the Mexican

United States (Constitución Política de los Estados Unidos Mexicanos) and The Federal Radio and Television Law (Ley Federal de Radio y Television). In the case of the first, it just recognizes some audience's rights but there is not the majority. In the second case, the law was formulated from the media industries perspective but not from the audiences'. For this reason, the principal object of this paper is to examine how the Mexican legal instruments characterize the audiences, for then compare it with the media characterization and the own audiences vision. This first part of the study is done by a content analysis of the two legal instrument mentioned. This work is part of my graduate thesis which tries to create a proposal about the rights' audiences in Mexico from their own perspective. There is not recognition about the audiences in the Mexican legal instruments. The vision of it has been framed by the industries and not for State and the audiences. The media laws in Mexico are obsolete and not recognize the audiences´ rights. For this reason is important to know the own audiences perspective, which permit reform the Mexican laws. * Hamelink, C.J. (2003). "Human Rights for the Information Society", en Sean O´siochru y Bruce Girard, Communicaticating in on Information Society, Geneva, UNRISD, p.p.121-163. ** Ibope report, (2008). http://i.esmas.com/documento/0/000/002/026/02_Analisis_de_Audiencia_08.pdf Author Walys Becerril Martínez is student of the Graduate Program in Communication Studies at Universidad Nacional Autónoma de México (UNAM). Her graduate thesis is titled "The Human Right to Communicate: The Mexican Audiences Perspective". Walys Becerril has participated in the Annual Congress of Asociación Mexicana de Investigadores de la Comunicación, where she has also been assistant. She has been research assistant at the CEIICH-UNAM and at the UAM Xochimilco –she has collaborated with the Ph.D. Aimée Vega Montiel and with the Ph. D. André Dorcé Ramos-. She was grant holder at Centro de Investigaciones Interdisciplinarias en Ciencias y Humanidades of UNAM. She participated as assistant of the Local Organizing Committee of the 2009 IAMCR Conference.
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**The Establishment of Religious and Private (Commercial) Radio Stations in Malawi: Broadcasting in a Deregulated but Political Media Landscape**

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The advent of democracy coupled with the deregulation of the media sector has meant an increased opening up of the media landscape in Malawi to the establishment of religious and private (commercial) broadcasters. As a result, many religious radio stations, specifically Christian radio stations, and commercial radio stations are in operation. The Malawi Communications Regulatory Authority (MACRA) regulates these radio stations with the acquiescence of the minister of Information whom the president of Malawi appoints.In spite of the general opening up of the media sector, significant regulatory challenges remain that impede the radio stations from operating free from government interference. Furthermore, some regulatory impediments exist that discourage the establishment of even more radio stations. This study explores the regulatory factors that have affected the establishment of religious and commercial radio stations in Malawi and shows how these factors have restricted the establishment of new radio stations and even restricted their functions after they are established, particularly commercial radio stations. In doing this, the study argues that though the laws that regulate the broadcast media provide for a free media in a democratic environment, commercial radio stations, unlike religious radio stations, have occasional problems staying in operation as they often find themselves the victims of political persecution propagated by the government in power.Concomitantly, the study argues that for these radio stations to fulfill their roles of keeping the politicians and the government accountable, the government must refrain from injecting politics into regulating them. The politicization of the regulation of the radio stations has an adverse impact on freedom of speech generally and, consequently, on democratic practice. Such political persecution is particularly hazardous to the democratic process during political elections.

**Giving Voice to Minorities: The Crossover between Individual and Collective Aspects of Image Rights in Mass Media**

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The legal discipline for prejudicial depict of minorities by mass media vehicles is usually restricted in most countries (including Brazil) to criminal law and some administrative sanctions. Much less attention is paid to civil litigation. The portrayal of those minorities could reinforce stereotypes to the limit of group stigmatization, and clearly give rise to damages to each member of this minority. I would argue that, although the right to one's own image is acknowledged as a personal right, it has both individual and collective aspects. Furthermore, I claim the damages a prejudicial characterization could entail would be far greater for minorities, and deserves legal protection. However, to design the legal remedies able to assure this protection is not an easy task, and may require a new legal doctrine. Indeed, such approach should reconcile individual and collective reparation for damages, tradeoff the payment of such damages against the demand for a specific performance requiring the restoration of the group image and, on top of that, deal with public regulation of TV and Radio concessions and censorship concerns. I personally advocate the use of the rights of reply or correction as one possible measure to enforce minority rights. By forcing violators to produce and broadcast the answers of minorities to unfair portrait, we are giving appropriate voice and compensation to them.

**'Reporter fired for plagiarism': A Forensic Linguistic Analysis of News Plagiarism**

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Plagiarism in general has been traditionally considered an immoral, rather than an illegal act (Garner, 2009), or an ethical, rather than legal offense (Goldstein, 2003). News plagiarism, in particular, is not an exception. It has therefore been addressed more often by codes of ethics and deontology than by legislation. This is reinforced by the Reuters Handbook of Journalism (Reuters, 2008), which describes plagiarism as a 'cardinal sin', and claims that, whereas ethical guiding principles contribute to a better journalism, 'rigid rules' restrict and constrain the ability to operate. Likewise, the International Federation of Journalists (IFJ – http://www.ifj.org/en) and the Portuguese journalists' union (Sindicato dos Jornalistas – http://www.jornalistas.online.pt/) consider plagiarism a 'grave professional offense'. However, in recent years, this traditional perspective has been challenged, not the least by journalistic practice. In 2003, Jayson Blair resigned from The New York Times after facing accusations of journalistic fraud, including plagiarism; he was accused of lifting material from news wire services and other newspapers, such as the Washington Post and The San Antonio Express-News. In 2007, Jacqueline Gonzalez, columnist and administrative assistant to The San Antonio Express-News editor, resigned after she was found plagiarising from the Wikipedia. That same week, a reader of the Portuguese quality paper Público found that the journalist Clara Barata plagiarised (also) from the Wikipedia. In 2009, a reporter of the Telegraph- Journal in Canada was fired for plagiarism as she translated an article from L'Acadie Nouvelle. These cases have been handled by practitioners rather than by courts because they have been regarded as a violation of ethical rather than legal principles. However, as they infringe copyright regulations and bring along economic implications, they are also subject to legal action. In this paper we analyse a corpus of news texts, including texts considered to have been plagiarised, from a forensic linguistic perspective and demonstrate that this approach can be used to provide evidence in cases of suspect plagiarism or to initiate the investigation of previously unsuspected texts – including detection of verbatim lifting of monolingual text (e.g. using verbatim text from news wires without acknowledgement), paraphrasing of monolingual text (i.e., changing the words, while keeping the meaning of the original), and cross-lingual plagiarism (i.e. where a journalist plagiarises a text in a different language). We show that while verbatim lifting can be easily detected by a simple Internet search, plagiarism through paraphrasing and particularly translation are more difficult to identify and prove by traditional plagiarism detection methods. We also demonstrate that this methodology can contribute to changing the traditional approach to news plagiarism, and make it a legal, rather than an ethical issue. We conclude by demonstrating that using linguistic

evidence in news plagiarism cases will help streamline communication rights and duties, improve professional ethics and contribute to active citizenship.ReferencesGarner, B. A. (2009). Black's Law Dictionary. St. Paul, MN: West, 9th edition. Goldstein, P. (2003). Copyright's highway: from Gutenberg to the celestial jukebox. Stanford: Stanford University Press.Reuters, (2008). Reuters handbook of journalism. - http://handbook.reuters.com/index.php/Main_Page

**The efficiency of passive self-regulation to protect individuals' rights**

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The aim of the current paper is to analyze the efficiency of existing self-regulation system and legal protection of individual rights in Estonia from the citizen media perspective. In this paper the citizen media is defined specifically: television channels encourage the public to find newsworthy details and events from everyday life, record these events and send them to the television station. Professionally produced news include comments provided by anonymous lay members. It is part of the business model of commercial media but concurrently arises a question: what new challenges these new formats pose for the protection of privacy? In Estonia, which is known for its very liberal regulation and media policies. Although the majority of legal acts concerning personal data and public information follow the principles recognized in the EU, the number of court cases stays small and the corresponding interpretation discourse emerges with inhibited progress. At the same time the number of complaints received by the two press councils exceeded 100 in 2009, which was the record of all times. Number of cases include severe personal damage, in particular privacy infringement. The essence of regulative discourse is rather been embodied in self-regulation. Also the EU Audiovisual Media Services Directive (AVMSD), as well as the good online practice by the content providers encourages self-regulation. The commercial television stations and the Internet news portal Delfi have introduced the Notice-and-take-down principle – the visitors can notify the editorial board about bad video or comment. At the same time the portals provide limited explanations, which videos or comments particularly infringe others' rights and how to establish the it. Thus, the media channels passively enable the general public to outline the boundaries for ineligibilities, but it does not publicly and exhaustingly communicate the principles of good practice, like it is done within the system of professional journalism. This puts up a question: would the passive self-regulation be sufficient to protect individuals' right to mark the boundaries for his private life? The question becomes more complicated because the Personal Data Protection Act gives some special right to the professional media content providers (Article 11, Personal Data Protection Act). Hence, it is important to ask: is the "citizen media" equal to the "journalistic discourse" of these web-pages?

**BETTER LATE THAN NEVER?: THE BIRTH OF SPANISH AUDIOVISUAL REGULATOR**

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Late in 2009, Spanish Congress voted in favor of the project that - finally - can change the media landscape. That is, Spain was the only EU member state that has no audiovisual regulator authority at national level. Early in 2010, this proposal still depends on final approval by the Parliament, but everything indicates that the Government will endorse definitely the birth of the Spanish Audiovisual Regulator (named in Spanish, Consejo Estatal de Medios Audiovisuales - CEMA). Since the 90s, the creation of an independent authority has been discussed in different Spanish political fields. Between 1997 and 2003, more than 10 proposals were submitted by diverse political parties. None of them were approved, so that Spain became an anomalous case, opposing the EU trend and the recommendations of the Council of Europe. However, the reform of the audiovisual sector's legal framework and the implementation of an independent authority had been promises of the socialist government campaign. Thus, under the pressure of the new EU legislation (Audiovisual Media Services Directive) that Member States should transpose to state frameworks before the end of 2009, the Spanish government

presented a proposal for a General Law on Audiovisual Communications, which includes a new Regulatory Authority. So far, the CEMA's project does not have the consensus of the audiovisual sector nor other authorities such as the Audiovisual Council of Andalusia (region of Spain), which criticized the potential dependence of the regulator from political power. From the perspective of media policies and comparing models of other regulatory bodies, such as the British Ofcom, the French CSA and even regional experiences in Spain (Andalusia and Catalonia), this paper will analyze the structure, guarantees of independence, the powers granted, to understand which role can the new Spanish body play in the framework imposed by European directives.

**The right of reply and the necessity of adequate regulation**

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In April 2009, the Brazilian Supreme Court decided to abolish the Brazilian press law in force since 1967, which was considered incompatible with the Brazilian constitution of 1988 and regulated among other issues the right of reply until recently. Regarding the right of reply, it was argued, it would be self-enforcing by being provided by a constitutional provision as fundamental right in Brazil, which served as supposed justification for denying the need for regulation on this complex right, which is to ensure not only a right to personal identity of those affected by released content through the media, but also the pluralism of information and the accuracy of information disseminated by the media In order to verify if the argument highlighted above is in line with reality of Brazil, we have collected and analyzed all the decisions pronounced by all ordinary and extraordinary Brazilian Appeal Courts from 1988 (when Constitution of Brazil was adopted) to 2009 in cases involving the exercise of right of reply. Through the analysis of such judgements, it was noticed that even for the duration of the Brazilian Press Law the right of reply was permeated by a high level of uncertainty, given the strong disagreement among the judges. Notwithstanding the existence of a Brazilian statute to ensure the right of reply until April 2009, the research suggests that there will be only certainty enough for the adequate exercise of that right, if there is a legal regulation that takes into account: (a) the specificities of each media on the exercise of the right of reply and its effects especially on the costs of dissemination of its content; (b) the proportionality between its exercise and the contested content disseminated on media; (c) the nature of the right of reply, which has nothing to do with criminal sanctions, civil or administrative liability for abusing the freedom of speech; (d) the different factual assumptions of the right of reply, depending on the adopted legal system; (e) the adequate harmonization of the guarantees under the due process of law and the need for a rapid adjudication, given the harmful effects of the time gap on the exercise of that right.

**The role of women in indigenous conflict resolution among the Issa and Gurgura of Somali**

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This paper is based on the findings of research in to the role of women in indigenous conflict resolution among the Issa and Gurgura of Somali. This paper examines the system of indigenous conflict resolution mechanisms, the level of women's participation in indigenous institutions for conflict resolutions and the socio-cultural and economic factors that contribute to the low level of women's participation in these institutions. In order to have a better understanding of the role of women in negotiations and peace processes as well as the factors that hinder them from the formal means of representation and decision making processes in conflict resolution, it is first important to describe the general socio-cultural settings of the Issa and Gurgura communities. In these descriptions the paper focuses on some of the important elements of the socio-cultural settings of the study community that are in one way or another (directly/indirectly) related to conflicts and indigenous conflict

resolution mechanisms. To this end, the paper focuses on how marriage practices in Issa and Gurgura communities and the residence rule after marriage affects women in decision making processes at household and community level. It explores how harmful traditional practices related to marriage influences women's physical and psychological well being. It also examines the positive aspects of marriage practices in the formation of social capital which strengthens friendship and unity instead of enmity. The paper also tries to examine other aspects of the socio-cultural settings like kinship relationships, lineage ties (genealogies), the organization and structure of social institutions, and ceremonial practices. In this descriptive analysis the research tries to see the status and position of women as well as their role in decision making activities both at household and community level.