



Law Section

Abstracts accepted for presentation at IAMCR 2015 in Montreal, Canada

Id: 9310

Title: Free Speech on Trial: How Brazilian Supreme Court decides on recent cases involving censorship and confidentiality of the source in the press.

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Abstract: This paper aims to analyze the censorship measures to the media in Brazil during 2014. The presidential election year was marked by state interventions in in media in two ways: the political action of local governments, and the misunderstanding that Brazilian Justice has made of the practice of journalism, especially in election periods. The Brazilian electoral Justice argues that journalistic material is electioneering and therefore determines text editing; the withdrawal of content or even determines the right of response against publications revealing facts of public interest. Some of the most renowned media companies had against themselves decisions that determined censure of texts as well as the immediate publication of the response on the grounds that they constituted electoral propaganda. In addition, the year was marked by precautionary measures that suspended the publication of news in several news media, especially the printed and digital ones, resulting in apparent disregard to the Brazilian Constitution. We cannot forget that Brazil hosted the libertarian theory as regards the exercise of freedom of expression, which means no state intervention in the production of journalistic content, i.e. it is prohibited to the State to say what should or should not be informed by media. The number of lawsuits asking for a ban on the publication of news has not gone unnoticed by the Supreme Court, which indicated what should be the right course, in the words of Judge Celso de Mello (RCL 18 836): "I am concerned about the fact that the exercise by some judges and courts of the general power of restraint has culminated by turning into inadmissible instrument of state censorship, with severe impairment of freedom of expression. "In another important decision (Jan. 2015), yet temporary, because in preliminary basis, the Supreme Court annulled the order of a judge who ordered the breaking of telephone secrecy of a reporter to try to get the name of the source that provided the information about a fraud case in a public agency. The Supreme Court decision confirms what says the Brazilian Constitution (article 5, XV - XIV ' access to information is ensured to everyone and the confidentiality of the source shall be safeguarded, whenever necessary to the professional activity): a free press is a condition of a democratic state and a free press has as a condition keep secret of its sources.

Id: 9319

Title: Media regulation and public interest: Institutional and substantive aspects

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Abstract: Media regulation has often been justified by the need to preserve and advance various public interests. However, quite often there is no consensus about which public interests should be protected by regulation, and about the extent to which state regulation should intervene in order to protect these interests (Livingstone & Lunt, 2012; Puppis, 2008; Van Cuilenburg & McQuail, 2003). Furthermore, there is a large cross-national, cross era, and cross sectors empirical evidence showing that regulators are more influenced by private interests rather than by public ones (Horwitz, 1991; Posner, 1974; Stigler, 1971). Therefore, the Public Interest Theory of regulation has been considered as merely a normative while the competitive Private Interest Theory has been dominant for decades. The current study aimed at bringing back the Public Interest Theory to the center of the discussion on regulation at large and on media regulation in particular. We employ two clusters of ideas from the regulation and public policy literatures. The first presents new approach to the linkage between public interest and regulation: instead of looking at the substance of the desired public interest, the focus is on a deliberative-democratic-pluralistic process through which the public interest is shaped and agreed upon (Christensen, 2011; Croley, 2007). The second idea has to do with the enormous increase in the number of independent regulatory agencies (IRA) across countries and sectors (Gilardi, Jordana, & Levi-Faur, 2006;). We investigated two Israeli media regulatory agencies: the Second Authority for Television and Radio and the Council for Cable TV and Satellite Broadcasting. First, we identified 15 public interests which the two agencies are supposed to advance according to the law and to their own regulations. Second, we located the members of the two agencies' public councils from the years 2000-2012 and asked them to respond to a questionnaire regarding these public interests as well as to address the functioning of the agencies in the light of these interests. Thirdly, we approached a group of media experts and asked them similar questions. We found that, at least declaratively, regulators consider public interests as guidelines for their regulatory activity and that agreement about desired public interests in the media sector can be achieved; yet, we found differences between one agency which is an IRA, and the other which is a governmental agency. These differences are with regards to both the functioning based on public interests as well as the extent to which private interests

(political and business) are part of the regulatory work.

Id: 9434

Title: ANALYSIS AND RECOMMENDATIONS FOR IMPROVEMENT OF NATIONAL LEGISLATION ON ELECTRONIC PUBLIC SERVICES IN KAZAKHSTAN

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Abstract: In the area of social development of the Republic of Kazakhstan, provision of public services is perhaps one of the most important for the whole system of executive power. The overall objective of this paper is to contribute to a more equitable regional development and increasing living standards in the regions of Kazakhstan through the reviewing and analyzing the national legislation on public services. The specific objective of this work is to support the government of Kazakhstan at central and regional levels in designing and implementing a coherent legislative and institutional framework conducive to local development. The considered experience paper is focused on the following: (i) analyze the existing regulations and bylaws in order to assess the current gaps in meeting international standards; (ii) propose a coherent legislative and institutional framework conducive to local development in Kazakhstan; and (iii) identify the challenges facing the e-government policy implementation. Despite a number of complex public administration reforms implemented in Kazakhstan, the delivery of public services still has some institutional weaknesses. Given a number of policies, laws, and frameworks have been designed to enhance and promote the use of ICT in service delivery; and to regulate it, there still remain important issues, with respect to which the national legislation falls short of meeting international standards. The Kazakhstani government has put high expectations on the introduction of e-government for three objectives: to provide fast and quality access to public services; to improve public services' effectiveness through the widespread use of ICT in the public sector; and to minimize personal contact between customers and government officials in order to reduce administrative corruption. While promoting transparency and public accountability, e-government policy has posed a serious challenge for the Kazakhstani traditional bureaucrats who perform in the corrupt public sector environment. Corruption is considered to be a part of public sector culture in Kazakhstan. After years of e-government implementation the majority of government bodies still provide informational services at the very basic level despite significant investments in improvement of technological infrastructure, training of the government officials and IT staff. The expected outcome of e-government policy is building joined-up government, which enables information to be gathered and shared across departments, and public services to be re-organised and joined together in an integrative manner. Thus, the technological infrastructure in the country can enable or constrain service integration as a means to overcome distance and assist vulnerable groups in remote locations to get access to the public services. It is important to identify governance problems, provide

means for assessing the effectiveness of policy reforms to address those problems and formulate better policies. The national legislation should contribute to better delivery of public services responding to the needs of population, assisting in building a sustainable society.

Id: 9458

Title: Insurance contracts and consensus: A case for plain use language

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Abstract: Consensus between contracting parties is one of the fundamental principles of the law of contracts and a lack thereof has dire consequences for the validity of the contract. This is especially true for insurance contracts which have in certain instances been described as *uberrimae fidei* contracts due to the high level of trust which should be present during the pre-contractual phase of the contract. As with many other contracts the insurance contract is characterized by a noticeable power differential between the contracting parties. The insurance proposer gives no input in the content of the contract and is not in a position to negotiate the terms thereof. This leaves the proposer in a vulnerable position where she has one of two options: either not conclude the contract or conclude the contract on terms not mutually negotiated. The reality of this situation can potentially create or reinforce hegemonic power. Insurance contracts are generally known for being written in a complex legal register which is brought into question when an insurance claim is submitted. The difficulty in interpreting these contracts is evident from case law and has led to some well-established rules of contractual interpretation (such as the *parol evidence rule*) being relaxed or ignored in order to give effect to the contract. To this extent some jurisdictions have, when interpreting these contracts, gone so far as to determine the content of an insurance contract based on what the insured's understanding of the contractual obligations were, regardless of the actual wording of the contract. This could set a very dangerous precedent and could pose challenges for the longstanding sanctity of the contract. This paper will focus amongst other on the wording of insurance policies and the extent to which unnecessarily complex legal jargon could potentially raise the question whether or not true consensus has been reached between the insurer and the insured. In order to address this issue and ensure that parties to an insurance contract are indeed *ad idem* about the contractual content, contracts of insurance should be drafted in plain language without sacrificing legal content. Clients of insurance companies should be satisfied that the insurance companies are communicating truthfully and are not hiding behind complex legal jargon in order to escape liability in terms of a contract. This paper will focus on the South African position regarding insurance contracts. Firstly the paper will examine the communication process leading to the conclusion of the insurance contract. Secondly it will critically analyze the content of a standard policy providing cover against critical illness in order to determine whether, given the nature of the content, true consensus is possible. Finally the extent to which the wording of these policies have been changed in order to comply with the Consumer Protection Act of 2008 and other measures of the Financial Services Board aimed making insurance contracts more comprehensible to laypeople using plain language will be

examined.

Id: 9517

Title: PANEL: Law Section. **TITLE:** The role of societal intermediaries in fostering access to information: Experience from subnational Mexico

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Abstract: The objective of this paper is twofold. Firstly, it attempts to explore the elements that facilitate the linkage between access to information and accountability. It is clear that a regulatory framework (Freedom of Information Acts) is not sufficient to ensure that transparency is linked to accountability, but are the remaining factors influencing this linkage? Here it is argued that accountability is a problem of collective action, and as such, only certain types of players will be willing to incur the costs of linking information to accountability. This paper argues that the presence of a strong political opposition, specialized NGOs, and, specially, the existence of an independent and free local media is closely related to the verification of the conditions linking transparency and better accountability. Therefore, it is in the presence or absence of these intermediaries are the explanatory factors behind regional variations in operating transparency mechanisms. The second objective has empirical ambitions. Taking the variation in the capacity and independence of the organs of local transparency in Mexico as evidence, I aim to show that, beyond formal mandates, institutions are permeated by local counterweights, conditioning the possibility that transparency is linked to public accountability.

Id: 9584

Title: The Two Faces of Criminal Libel in 21st Century Canada

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Abstract: Our paper provides evidence that contradicts most of the received wisdom about the crime of defamatory libel in Canada. The research shows that: ' Although it is widely believed that criminal libel prosecutions are exceedingly rare, in fact such prosecutions are far more common than journalists and lawyers realize;' ' The Crown no longer prosecutes journalists for criminal libel;' ' Prosecutions which target political speech ' the kind that have led Canadian civil-rights organizations to call for abolishing the crime of defamatory libel ' represent only about one-third of prosecutions in the past 25 years;' ' Most prosecutions result from vile comments, often of a sexual nature, in the context of failed personal or business relationships;' ' The high cost of litigation prevents civil libel lawsuits from being a realistic remedy for most victims of purely personal defamation. The paper concludes with suggestions for reforming the law of criminal libel in Canada. Our paper reports the results of the first systematic survey of arrests and prosecutions for criminal libel in Canada, and one of the very few such studies in any country. Our data come from a comprehensive review of all publicly available news and legal databases in Canada. The criminal libel prosecutions targeting political speech use the power of the state to suppress protests, most of which are about alleged cases of police misconduct. In theory, such protests are an important means by which those in power are held accountable. In practice, however, the police target their critics for investigation and prosecution. Although this use of criminal libel has been upheld by the Supreme Court of Canada, it is difficult to reconcile such measures with the ideal of a free and democratic society. The criminal libel prosecutions that arise in the context of failed personal or business relationships also raise issues of power, and power relations, but in a much different context. The intentional infliction of emotional distress via the dissemination of sexual slurs, often through social media, strips victims of power. The speech in such cases has nothing to do with political issues or public affairs. The typical remedy of "more speech" is hardly an effective counter to having been labeled a slut (or worse). Victims of this kind of libel tend to lack the resources to initiate civil lawsuits, which makes criminal prosecution a valid means both of restoring a victim's reputation and punishing the person who intentionally used false information to harm the victim.

Id: 9685

Title: Exceeding authorized access: Lizard Squad and the reflexive modernization of hacking

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Abstract: This paper explores research on hacking and assesses hacking as a research domain suitable for international political economy of communication. First, hacking for strategic advantage (as distinguished from do-gooder hacktivism), among states and giant media corporations alike, is described as a technology practice, using case studies from new media studies. State-sponsored hacking is now a normal feature of geopolitical gamesmanship, as cases from the US and Russia can illustrate. Among giant media firms, Sony is renowned for its deployment of hacking for advantage in one of its early digital rights management (DRM) enforcement episodes (Burkart and McCourt, 2006), and in more recent counter-hacks against the Sony doxxing campaign of Lizard Squad of late 2014. Cases suggest that firms and states want to preserve the legal right to hack, but also to retaliate against those who hack them. We look for precedents and anticipate future scenarios under this conflicted policy situation. Next, the sociology of risk (Beck, 2007) is explored as a critical systems theory which can frame hacking as an example of a technology practice occurring in the overlap of 'the state of normalcy' and the 'state of exception,' in the 'world risk society' under conditions of 'reflexive modernization' (Beck, 2007, pp. 67-80). Corporate insurance coverage for hacking and financial remedies available under tort law provide examples of systems for managing risks of losses from hacking under a 'state of exception.' Legal code switching between security-state exceptionalism, anti-terrorism, and computer crimes represents risk management in action, providing boundary maintenance between legal, military, and financial routines. Finally, we assess the geopolitical significance of the Sony PlayStation Network hack and its attribution to Lizard Squad, which has ties to Russia. Although news headlines first attributed Lizard Squad to the hack of Sony, North Korea was also blamed through official US assertions. Adversarial US relations with Russia and North Korea represent a broad spectrum of approaches taken, from diplomacy to espionage and hacking, to proxy wars and 'harder' military conflicts. The ambiguities of the provenance of Lizard Squad attacks, together with other historic attacks from groups including Anonymous, show geopolitical adversaries' subjectivities to be indeterminate and changeable at the edges of the network, where hacking episodes first appear, possibly in

processes of 'reflexive modernization.' The paper concludes with reflections about how international political economy has accounted for global DRM initiatives (Burkart 2014) in ways that may show how the legal frameworks for anti-piracy can also serve functionally for anti-terrorism and anti-hacking. Moreover, the critique of over-reach in one domain can be carried over systematically to critiques of over-reach in the others.

Id: 9729

Title: Social media and political development in Bangladesh: The laws and the lessons from history

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Abstract: 'Bangladesh government has blocked internet calling and messaging services Viber and Tango citing 'security concerns',' this was headline in most of local and international media in mid-January 2015 when the opposition-induced country-wide non-stop road and transport blockade was in force. Two days later Whatsapp and Line were also blocked by the regulatory body, Bangladesh Telecommunication Regulatory Commission (BTRC). The government contention was that opposition leaders and activists are using these social media apps to mobilize their supporters for picketing and carrying out 'subversive' activities across the country, the allegation the opposition parties denied. The government also tried to influence the traditional media with so-called 'briefing' by the information minister himself. The new media dwarfed the traditional media in most of the western world by diminishing its influence and the market value. However, the scenario in most South Asian countries including Bangladesh is somewhat different as the 'old media' are still growing though, of late, it started to face the challenge from the new media. This paper looks into the growth of the new and social media in Bangladesh in light of the incumbent government's vision of building a 'digital Bangladesh'. It also examines the impact the social media on governance issues and freedom of expression. It is widely accepted belief that a free media system goes hand in hand with good governance. Siebert et al (1956) free press theory that proclaims complete freedom of public expression and rejects any interference by the government in any aspect of the press, and Terry Flew's (2005) concept of new media and ICT's enabling role of greater democratic participation and participatory form of citizenship and political engagement are tested with empirical evidences. The philosophy of 'Digital Bangladesh' comprises ensuring people's democracy and rights, transparency, accountability, establishing justice and ensuring delivery of government services through maximum use of technology with the ultimate goal to improve the daily lifestyle of general people. Contrary to the above vision, the government approved the ICT (Amendment) Act 2013 which, if passed in parliament, would become a draconian law and likely to be used to muzzle the new media and oppress dissenting voices. The proposed law will empower the law enforcers to arrest anyone without warrant under a non-bailable section for any information they share in the social media which deemed by the authorities as libelous and contemptuous. Moreover, any offender, if convicted under the proposed law would face a 14-year prison term and a fine of TK 10 million. The proposed amendment is in contravention of constitutional clauses and Right to Information Act now in force in the country. The research finds that the government's actions are self-contradictory ' in one

hand it pledges to the public through a landmark vision of 'digital Bangladesh' for promoting and expanding the new media, ICT for development and free flow of information to serve the people better and to ensure good governance, while on the other, enacting stringent law to control the media.

Id: 9743

Title: Surveillance, Fusion Centers, and Protest during the War on Terror: A Case Study of the 2008 Republican National Convention

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Abstract: The expansion of executive powers and the loosening, and in some cases, abandonment of the rule of law, civil liberties, and human rights in the U.S. during the war on terror have been described as a state of exception (Agamben, 2005; Ericson, 2007). During a state of exception, it is proclaimed that the exceptional nature of the times defy the ability of the normal legal order to cope with the crisis and require extra-legal measures (Schmitt, 1985). Agamben (2005) argues that while a state of emergency is theoretically temporary, the state of emergency has become a permanent method of governance in modern societies, threatening to dismantle democratic processes and revealing totalitarian tendencies in the contemporary politico-legal system. Despite the centrality and indispensability of communication to a state of exception, the role of communication has received little in-depth scholarly analysis. Communication is the process through which the state of exception gains hegemonic and ideological power and the symbolic means through which it is challenged. Under the flag of the war on terror, changes in surveillance law, such as the PATRIOT ACT and FISA, and violation of the law, such as warrantless wiretapping, paved the way for the development and use of communication technologies, developed and frequently operated by private companies. Communication is involved in restrictions on press freedoms, such as routine denial of Freedom of Information Act requests or the arrest of media workers at protests, and media self-censorship. In turn, media and cultural industries play a critical role in legitimizing and normalizing the legal framework of the war on terror. In order to investigate the role of communication in a state of exception, this paper conducts a historic case study of the Republican National Convention (RNC) protests in St. Paul, Minnesota in 2008, which witnessed a case par excellence of police militarization and the first application of a state-level version of the U.S. PATRIOT to protesters. The analysis reveals how the language of emergency and terrorism was used to justify surveillance, including online surveillance, confiscation of citizens' communication equipment (computers, cellphones, etc.), and the activities of the Minnesota Joint Analysis Center or 'Fusion Center.' This paper concludes by discussing the centrality of communication to the legal and political theory of the exception and, using the case study as an example, how appeals to an emergency have functioned to normalize anti-democratic laws, policies, and practices during the war on terror.

Id: 9754

Title: Lawmaking as "hate spin": the fluid frontiers of religious intolerance

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Abstract: In debates about freedom of expression, laws concerning religious offence have been among the most contentious. The controversy surrounding the Charlie Hebdo case is only the latest in a string of high-profile disputes that have spilled beyond national borders, with violent results. Most of the scholarly analysis of the relevant legal issues looks at the law as part of the structure within which these processes play out. Laws concerning freedom of expression, hate speech and religious offence provide the rules of the game, dictating what speech and counter-speech is permissible or prohibited, and shaping societal norms. This paper argues that the legal issues ' which already difficult enough ' are made even more complex by the fact that lawmaking as an activity is itself foisted with tremendous symbolic importance in divided societies. The law ' alongside books, videos and other cultural products ' provides objects of contention to be creatively exploited, and not just the rules of the game. This is clearly shown in the flurry of anti-Sharia bills in the US: legislators in various states have sought to protect local laws from the encroachment of Islamic law. This article analyses the November 2014 passage of one such piece of legislation, Alabama's Amendment One. Although amounting to an unnecessary reaction to a non-existent threat and unlikely to survive judicial scrutiny, such acts of legislative entrepreneurship appear to be achieving their hidden agendas: to frame Islam as a threat, and win political points for their backers. Similarly, in Indonesia, an anti-pornography law was primarily a vehicle for Muslim hardliners to assert their political power. The argument in this paper is placed in a larger theoretical frame that treats the public giving and taking of religious offence as a strategy of contentious politics, which I term 'hate spin'. Hate spin exponents around the world have been adept at manufacturing offence through or in reaction to various cultural products in order to gain political capital or weaken their opponents. Lawmaking ' irrespective of whether bills are enacted or implemented ' has become a high-level process through which political entrepreneurs practise hate spin.

Id: 9759

Title: International Copyright and Access to Knowledge: Institutional Foundations and Path Dependencies

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Abstract: The international copyright regime is sometimes viewed as a hegemonic regime by which core or wealthy states, representing intellectual property owners, are able to exert power over peripheral countries, which are often viewed as representing "users" in the international copyright regime (Story, 2003; May 2006). Recently, however, the World Intellectual Property Organization (WIPO) has been reconceptualised by NGOs and activists as a site of possible resistance'as fertile ground for the establishment new international norms of 'user rights', including the 2013 Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. Grounded in the theoretical and methodological literature of historical institutionalism (Bannerman and Haggart, 2014), this paper is part of a broader work on the history of principles of access to knowledge in international copyright. Historical institutionalism calls on scholars to examine, in historical perspective, the changing relationships between the three 'I's that shape political outcomes: institutions, ideas, and interests. Drawing on historical records of WIPO negotiations and WIPO documents, this paper focuses on the first 'I': institutions'the rules of operation, bureaucratic structures, and administrative norms of WIPO. It asks: to what extent do WIPO's institutional features provide fertile ground for the internationalization of 'user rights'"This paper outlines not only the underdevelopment of the institutional mechanisms of global polity in the field of copyright, but also the continued operation and path dependency of institutional structures that resist such development. It first examines, in historical perspective, the administrative aspects of the Berne Convention founded between the nineteenth century heyday of colonialism and 1971; some of those administrative aspects were grounded in colonialism and have continuing effects. Second, I examine the institutional characteristics of the general administrative aspects of the secretariat of the Berne Convention, now known as WIPO.This paper argues that the turn to WIPO as a site of resistance and reform of international copyright is misguided and based on an over-optimistic assessment of the potential for developing countries and NGOs to redirect the organization's operations and culture. It concludes that, despite the successful negotiation of the Marrakesh Treaty, overall, the institutional structures of WIPO resist significant redirection and reform. Rather, the administrative and bureaucratic structures of international copyright reinforce many of the norms established under colonialism.

Id: 9775

Title: Current Copyright Policy Tendencies in 2015: Further Weakening of Limits and Exceptions and the ever reducing Public Domain

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Abstract: In 2015, Spain's new Copyright law entered into effect including many new provisions including one that requires Universities to pay Collecting Societies for using manuals and textbooks made available online in Virtual Campuses. This license cannot be waived and means that Universities have to pay even for works released under free licenses, such as Creative Commons, and for works already in the Public Domain. This weakens the protection offered by limits such as the one in favor of educational uses (art. 32 in the Spanish Law) and also reduces the Public Domain as it establishes unalienable licenses for content no longer in Copyright. This, and other Copyright Policy tendencies such as the WIPO Treaty on the Protection of Broadcasting Organizations, at the moment still under discussion, or books rights holders seeking to restrict uses for Data extraction and Text Analysis clearly indicate that in 2015 further reducing limits on Copyright and the free uses of work in the Public Domain will continue. We analyze these cases and propose solutions.

Id: 9879

Title: La consécration juridique de la liberté de la presse à l'épreuve de la scène politique gabonaise

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Abstract: L'émotion suscitée par les attentats contre Charlie Hebdo, journal satirique et irrévérencieux français, le 7 janvier 2015 à Paris, avait touchée l'ensemble de la Planète. Ce journal a toujours régulièrement fait l'objet de menaces et de procès en tous genres, notamment avec le monde politique et tout particulièrement avec l'extrême droite mais jamais d'attentat. Ce dernier, matérialisé par une tuerie de journalistes, portait clairement atteinte à la liberté d'expression et donc par ricochet à la liberté de presse. De par le monde, les marches de soutiens aux familles, à la rédaction du Journal et à la France ont émus. A Paris le 11 Janvier 2015, la marche républicaine, pour dénoncer le terrorisme et consacrer la liberté d'expression, a vu la participation de près de 50 dirigeants du monde parmi lesquels de fervents opposants à la liberté de la presse. Il était en effet paradoxal de voir des représentants de pays où la liberté d'expression et de la presse sont largement réprimées. Les critiques contre la présence du Roi Abdallah II de Jordanie, du Premier Ministre Hongrois Viktor Orban, du Ministre des Affaires Etrangères Russe Sergueï Lavrov, du ministre des Affaires étrangères égyptien Sameh Choukry et du Président Ali Bongo Ondimba, ' s'étaient donc faites jour. Le Chef d'Etat africain le plus critiqué a été Ali Bongo Ondimba Ondimba (Gabon, 89ème sur la liste 2014 de Reporters Sans Frontières). Les articles de presses écrites et électroniques ont largement fustigés sa présence lors de cette marche. Le journaliste survivant de Charlie Hebdo, Laurent Léger, a déclaré sur France 2 : « Je ne peux pas dire que voir Ali Bongo défiler ça m'a fait du bien ». Clairement, ces attaques faisaient référence à liberté de la presse qui serait muselée, embrigadée, opprimée au Gabon. En fait, la violence de ces critiques visait directement le Chef de l'Etat gabonais comme si les entraves à la liberté de la presse n'étaient observables que depuis le début de sa mandature. On peut considérer que ces critiques se sont faites sous le coup de l'émotion. Néanmoins, il est clairement avéré que les blocages à l'expression efficace de la presse sont en vigueur depuis des décennies même si l'on peut concevoir que les tensions, observées de nos jours, sur la scène politique gabonaise les rendent plus visibles. L'objectif de cette communication sera donc de rendre compte de la garantie ou non de la liberté de la presse au Gabon. En nous servant des textes juridiques encadrant la liberté de la presse, on montrera que cette dernière est protégée constitutionnellement pour garantir son indépendance, depuis 1990, mais qu'il existe néanmoins, l'emprisonnement de journalistes, l'instrumentalisation politique des médias, l'institution juridique du délit de presse et la censure au Gabon comme dans beaucoup de pays d'Afrique.

Id: 9907

Title: Conceptual quandary: understanding radiotelegraphy at the 1903 and 1906 international conferences

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Abstract: The compulsory intercommunication provision adopted at the 1906 international radiotelegraph conference is best understood as a structural attempt at network control and a crucial step in the ascendancy of the United States in global communications (for a contemporary application of the concept, see Author, 2013). While seeking to counter the geopolitical threat posed by British control over yet another technology, however, policymakers preparing for the conference also faced a conceptual problem: just what exactly was radiotelegraphy and in what way did it pose a threat to U.S. interests? Wireless was not yet the long distance technology of the following decade, but a short-haul technology: signal stations mounted on lighthouses sent messages to ships, while receiving and forwarding the same from them. As the managing director of the pioneering Marconi Company complained, the delegates to the 1903 conference regarded ship-to-shore service as analogous to flag signaling. Naval officers, on the other hand, compared a possible Marconi monopoly to the British monopoly over submarine cables, while the company pressed for international public utility status by comparing itself to the telephone. By 1908, when the ratification of the 1906 convention was before the U.S. Congress, policymakers no longer talked about flag signaling, but sought to fit radio telegraphy into a public service framework associated with common carriers even as they distinguished it from the telephone. This paper will trace how American policymakers' understanding of the technology evolved between the 1903 and the 1906 conferences and will analyze the impact, if any, of policymakers' conceptualization of the technology on the positions they took at the conference. To what extent, if any, did other states understand the technology the same way? What were the basic sticking points among states that had to be overcome before the convention was adopted? What compromises were struck? Who benefited and who lost? How exactly did the 1906 convention contribute to American ascendancy in global communications? This case study will allow me to evaluate historical arguments about the 1906 convention (Douglas, 1989; Headrick, 1991; Hills, 2002 and Hugill, 1999) and think about how the network control framework fits with existing approaches to international law, such as legal scholars Jack Goldsmith and Eric Posner's (2005) argument that some combination of coincidence of interest, coordination, cooperation and coercion explains state behavior associated with international law. To examine the questions raised above, this paper will rely on the records of the Bureau of Equipment in the Navy Department, the records of the Secretary of the Navy as well as the records of the Department of State and the Department of Commerce and Labor, all located in National Archives of the United

States. For the position of the Marconi Company and British policymakers the paper will also draw on the records of the British Post Office, located at the archives of the BT Group Plc, London, UK.

Id: 9969

Title: Judicial censorship on freedom of press: representations in the Folha de São Paulo and O Globo

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Abstract: This is a partial report of a research in progress that started from the premiss that from the 90s, the Brazilian Federal Supreme Court (STF) began to be a special player in Brazilian political decisions, as well, the court carries out its main function: Constitution guardian. Hypothetically, some of these political decisions impacted the media and the activities of social communication, influencing, especially the form of the exercise of freedom speech and, consequently, the exercise of democracy and the citizenship, and established legal criteria that guide the formulation and implementation of public policies about the social communication. The research analyzes three STF decisions: one that annulled the Brazilian press law (ADPF 130), one that eliminated the degree requirement for the practice of journalism (REX 511 961), and another one that endorsed the judicial censorship on freedom of press (Rcl n. 9428 involving the newspaper O Estado de Sao Paulo and Fernando José Sarney Maciel). The research also recognizes that in legal and political science there is a significant scientific production on political centrality of the judiciary, especially the Supreme Court, as in the case of the studies of COMPARATO (1997); FRIEDMAN (2005); KOERNER; MACIEL (2002); MAUS (2000); MORO (2004); PALU (2004); SHAPIRO; SWEET (2002); TAYLOR (2007); TATE; VALLINDER (1994); TEIXEIRA (1997); VIANNA; et al. (1999) e VIEIRA (1999 e 2002), however, there is a lack of studies and analyzes concerning the reception and representation of the STF decisions by the media and its consequences in policies and social procedures. The research aims to investigate the representations conferred by Brazilian media about the three STF decisions, in order to analyze how these decisions were accepted, understood and presented to the Brazilian society. The methodology chosen to fulfill the objective of the research was the content analysis of the news produced by Folha de São Paulo and O Globo, related to the STF decisions. Specifically this communication presents the partial results of the survey at Folha de São Paulo and O Globo, related to the STF decision in the Rcl n. 9428. The news was surveyed on the websites of newspapers: <http://www.folha.uol.com.br/> and <http://busca.globo.com/Busca/oglobo/?query=Pesquisar>, from December 03 to December 17, 2009, exactly a week before and after the trial, December 10. The choice of this media was justified because they are important newspapers, with large daily circulation, according to data obtained from the Brazilian Association of Newspapers (<http://www.anj.org.br/>) and the Brazilian Circulation Verification Institute (<http://www.ivcbrasil.org.br/>). Were located and analyzed 10 news in Folha de São Paulo and 6 in O Globo. The result of the analysis will be presented in this work.

Id: 10317

Title: SONGS OF POWER AND POWERLESS VOICES: UNDERSTANDING THE INFLUENCE OF COPYRIGHT IN SHAPING PUBLIC DISCOURSE THROUGH INDIAN FOLK MUSIC

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Abstract: Since its formal introduction by way of the Statute of Anne, Copyright law has exercised a powerful and pervasive influence on the creation, distribution and communication of content across the globe. Copyright has typically been viewed as an economic incentive provided to creators in the hope of encouraging innovation and creative behaviour that benefits society at large. With the passage of time, it has become increasingly clear that copyright is an important tool that shapes culture and as celebrated author, Salman Rushdie points out ' the ability to shape and influence culture determines power. The connection between power, economics and culture lies at the core of discussions that arose from revolutionary movements such as the Occupy Movement. These movements provide snapshots in time, where seemingly powerless sections of society attempted to rise against those tiny demographic percentages that held the greatest economic influence, and thereby also held the reins to our culture and its content. Proper and equal representation of society can be measured by examining the extent to which certain kinds of content are readily accepted as a part of public discourse. To contribute and control the content that is available via mainstream media and communication channels is to play a significant role in influencing and determining socio-political representation. Madhavi Sunder (IP3) stated that historically disempowered individuals were appropriating Intellectual property as a means to ensure greater recognition and human rights. To put it simply, to not be included or consulted, is to be ignored from the dialogue of progress. It is being increasingly accepted that copyright law leads to the creation of undue barriers and communication restrictions, particularly with respect to content creators hailing from developing or politically under-represented communities and classes. While this assumption may be generalized, this paper proposes to study this by way of focussing on the manner in which intellectual property law influences the representation of certain communities in India by taking a closer look at copyright law and its relationship with the media representation of folk music from certain parts of the country. The emphasis on folk music has been made to highlight its capacity to be used as both an example of artistic content creation as well as an embodiment of a people's oral history. The goal is to evaluate how the law influences the availability, representation, appropriation and distribution of Indian folk music in mainstream media, in the hope of establishing the ineffectiveness of copyright law in incentivising, protecting and representing certain kinds of content and their creators. This paper will re-examine the suitability of Indian folk music as an economic good to be governed by the economic

incentive theory of copyright law. It will involve interviews with folk musicians, managers, venues, labels and cultural organizations working in the space of protecting intangible cultural heritage. It will also explore CC licensing as a means to increase representation by way of removing content access barriers. The goal of this research is to explore how copyright law influences socio-political representation of communities.

Id: 10321

Title: La configuración del derecho de acceso a la información pública en las instancias internacionales

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Abstract: Las instancias internacionales cobran una especial importancia en la actividad legislativa de los Estados. En relación con el derecho de acceso a la información pública y la transparencia de los entes públicos existen referencias importantes como las interpretaciones del Comité de Derechos Humanos de las Naciones Unidas, el Convenio de Tromsø del Consejo de Europa sobre el acceso a los documentos públicos, la iniciativa internacional del OpenGovernment Partnership, la jurisprudencia del Tribunal Europeo de Derechos Humanos y de la Corte Interamericana de Derechos Humanos. Todo ello forma un corpus que inevitablemente debe influir en el desarrollo de los derechos fundamentales y la configuración del poder político de los estados democráticos occidentales. Determinar las coincidencias de las referencias internacionales sobre transparencia y derecho de acceso a la información pública, así como las divergencias y el grado de adecuación de la normativa española constituyen el eje de la investigación que se presenta.

Id: 10384

Title: PANEL: The Sony vs. North Korea Affair: Free Speech, Popular Culture, and Cybersecurity

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Abstract: The Sony/North Korea affair has it all. It is a "whodunit" to which the US president responded by sealing the evidence. It is a turning point in international relations: Under law of war conditions that require the involvement of critical infrastructure to do so, the US government treated damage to a corporation as an "attack." It launched the first broad public discussion of cybersecurity issues as a real threat. And it is the first time that popular culture was explicitly acknowledged to be a national security concern after decades of US insistence that cultural flows involve merely matters of "commerce." Now that the attack on the French satirical newspaper is also under our collective historical belt, the Sony/North Korea affair may come to be seen as the first in a cluster of events involving what Cherian George refers to as "hate spin," the taking of offence for political purposes, with additional wrenching transitions to intercultural relations of quite other kinds. The government of North Korea may not technically be a religion, but it operates sociologically enough like one that those who study religion in the digital environment may have valuable insights to offer both about the government's activities themselves as well as about how others may have used perceptions of the government for their own purposes. Building on the history of international relations doctrine and practice since World War II, one wonders whether such a thing as "rhetorical deterrence theory" exists or might be developed. It goes on: Some experts claim the Russia-based hacktivist group Lizard Squad is actually responsible. Certainly those who study political communication must now acknowledge hacking as a mode of speech. Political economists are thinking about interactions between political developments and Sony profits, throwing light on larger issues involving the balance between profit and freedom of expression; economists may well be modeling the relative value of future such events. Experts in the study of organizations will have to tell us how the US government determined "proportionality" in its response to the bringing down of Sony's information infrastructure as a means of justifying reactions. Intellectual property rights disputes have become involved, and bullying. North Korea's relatively minimal information infrastructure is Chinese, so any effort to shut it down, even briefly, must have involved that government as well. The legal and policy issues are myriad. This panel will include presentations by top scholars and thinkers that explore diverse dimensions of the Sony/North Korea affair from a broad range of theoretical and methodological approaches. This year's conference theme of "Hegemony or Resistance? The Ambiguous Power of Communication" certainly runs through the processes that are continuing to unfold in this affair. Each presentation will introduce an aspect of the affair

that is of particular interest from a given theoretical perspective, provide an analysis, and identify research questions the presenter believes of value both in terms of understanding the Sony vs. North Korea affair and in terms of moving the field of communication forward theoretically and empirically.

Id: 10386

Title: PANEL: The Sony vs. North Korea Affair: Free Speech, Popular Culture, and Cybersecurity

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Id: 10388

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Id: 10390

Title: PANEL: The Sony vs. North Korea Affair: Free Speech, Popular Culture, and Cybersecurity

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Id: 10392

Title: PANEL: The Sony vs. North Korea Affair: Free Speech, Popular Culture, and Cybersecurity

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Id: 10402

Title: Gatekeeping of the court: the control of communication in criminal and civil proceedings

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Abstract: 'The ambiguous power of communication', a theme for IAMCR 2015, is exposed in the gatekeeping of court proceedings. Despite longstanding and forthright principles of access to justice, free expression and open justice in European courts, the gatekeeping process is 'ambiguous' because the rules governing who gets access to different types of courts, what type of access is granted, and why, are unclear, open to interpretation and difficult to explain. The gatekeeping 'power' rests with a variety of agencies: governmental, judicial, administrative and even commercial. The press and public's ability to 'communicate' and receive information varies between and within international and national jurisdictions and territories. This paper examines the hegemony and resistance of law and policy that restricts and grants access to courtrooms (physical and digital) through one particular case study, drawing on legal and policy documents, media reports and discussions and correspondence with key stakeholders. In 2014, a decision to keep a criminal trial 'secret' and in camera in London's Central Criminal Court provoked national media interest and outrage. In the event, selected journalists were granted access to the proceedings deciding the fate of two individuals charged with offences relating to acts of terrorism. Permission was also granted to report the defendants' names, which were originally disguised. The appeal of the judge's original decision to hold the trial in secret brought by Guardian News and Media (GNM) and other media organisations brought to the fore the tensions between the principle of open justice and the 'needs' of national security. It also exposed the degree of administrative ambiguity in the gatekeeping of court proceedings and, perhaps most importantly, provided insights into the communication power play, in this and similar cases. While this paper welcomes the media organisations' intervention in the Incedal and Rarmoul-Bouhadjar case, and the appeal court's decision to allow members of the media to attend part of the proceedings, it is troubled by the restriction of access to a few 'accredited' journalists, the limited power of smaller organisations and lone individuals to participate in the process, and the critical implications for the public interest and the functioning of judicial processes in a democratic society. The empirical detail of, and theoretical questions raised by this case are relevant to other court jurisdictions, in the UK and internationally. The paper proposes that the ambiguous power of court gatekeepers and commercial bodies in controlling the flow of information from court proceedings deserves further scrutiny and even 'resistance' from communication and media specialist academics working in the legal policy field; furthermore, these scholars may have an important role to play in communicating court processes and rationales to public

audiences.

Id: 10414

Title: A Study on the 'Co-opetition' between Health Literacy and Law: With Special Reference to Health Food Advertising

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Abstract: It is the constitutional and legal responsibility of the State to protect people's health and achieve 'the right to health' via, among others, the provision of safe health food. The vast amounts of advertising (in various ways) have challenged the State to providing safety access to health food, because advertising goes everywhere to stimulate people consuming health food through media. In Taiwan, there is a Law so-called 'Health Food Control Act' (article 2, 6, 14 & 15) to regulate the advertising content of advertisers for protecting people's health, but it really achieved little. Since the contents of health food advertising are always highly changeable. According to the above reasons, this study tries to construct 'all-win' mode for people, producers (including advertisers), and country (administration) with field of health issue on regulation of advertising through the special reference to health food advertising. On the study's design, the researcher brings up 'co-opetition' between health literacy and law, to practice health for individual and society. Further, the researcher will use in-depth interview and focus group interview on government-industry-academic collaboration to sort and examine the interdisciplinary thinking approach and creation (the 'co-opetition' policy) can work or not. For achieving this study's objectives, the researcher is going to adopt qualitative research method by document analysis, in-depth interview, focus group interview, and participant observation. At the same time, by examining and scrutinizing past health food advertising on representation of media in Taiwan and all documents from research, the researcher also tries to provide solutions to Taiwan's present legislative and enforcement works for the regulation of advertising, communications law. **Keywords:** communications law, regulation of advertising, health literacy, health food advertising.

Id: 10425

Title: THE PROTECTION OF PRIVACY UNDER FREEDOM OF PRESS: With The Decisions of the Turkish Court of Cassation

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Abstract: The press is seen as the 'fourth force' in society and has duties to the public such as, giving news, enlightening society and forming public opinion. In 1769 William Blackstone in his 'Commentaries on the Laws of England' expressed 'the liberty of the press' as 'essential to the nature of a free state'. Thomas Jefferson stated the importance of press with the words 'no free press, no free country'no democracy'. The meaning and the consequences of 'Freedom of press' was discussed throughout the history. A strong and independent media can strengthen the governments to support democracy and socio-economic development. The freedom of press is protected under international treaties and the constitutions of many democratic countries. According to Turkish Constitution Article 28, 'The press is free, and shall not be censored. ' The State shall take the necessary measures to ensure freedom of the press and information.' The free flow of information is good for democratic decision-making by government, but sometimes, freedom of press gives the publisher exclusive control (a kind of hegemony) over what the publisher chooses to publish. Besides, informing the public may violate the right to privacy which is constructed in various societies in different ways. In Turkish Constitution Art. 20, 'Everyone has the right to demand respect for his/her private and family life. Privacy of private or family life shall not be violated.' Latest since the beginning of web 2.0, online media has become a central element of communication. Today many people participate in public life by using their own comments, images, videos as well as other formats in web-based platforms. Many signs point to a change of culture to an online media culture combined with a change of privacy. The privacy should be protected in every level, but within the public interest, what should be the consequence, freedom of press or privacy' In the decisions of the Turkish Court of Cassation sometimes privacy is held over the freedom of press, under Turkish Civil Code Art. 24-25 which protects the personality against the individuals who made the assault and sometimes the press resists the privacy according to Press Code Art. 1-3 which guarantees the publishing of the press. In the resolution of the cases separate criteria are taken into consideration. In the presentation the border between freedom of press, privacy and public interest will be discussed according to the current Turkish court decisions.

Id: 10525

Title: Fair Queuing and Network Neutrality

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Abstract: The recent proposal by the US Federal Communications Commission (FCC) to treat all Internet-based "broadband" services as telecommunications services for regulatory purposes -- rather than as "information services" or, as was discussed earlier, "broadcasting" -- is the latest step in a long socio-technical history. That began, on the regulatory side, with a 1950s challenge to the regulatory distinction between broadcasting and telecommunications that triggered a series of investigations over several decades. On the technical side, the problem was cast as one of "fair queuing" by those responsible for technical design of the Internet. Based on analysis of the technical document series, the Internet Requests for Comments (RFCs), this paper will review the technical struggles to operationalize what all agreed should be fairness in the transmission of information and communication through the Internet in the face of technical realities. The paper will conclude with an evaluation of the current FCC proposal regarding treating the Internet as a telecommunications service through this historical lens.

Id: 10527

Title: Privacy rights under State control: the Brazilian legal and diplomatic response to espionage threats

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Abstract: After Edward Snowden denounced to The Guardian that the American National Security Agency (NSA) had access to private online information from citizens all over the world, some countries had a particularly strong reaction to this espionage leaks since their political leaders had been targets to this surveillance. Even though Mexico, Germany and Brazil posed a limited threat of terrorist attacks and have been longtime allies to the American government, private communication from their government officials ' in some cases, even their presidents and chancellors ' have been intercepted for surveillance. This paper analyzes how the international threat to online privacy has pushed some governments to debate and approve laws to protect internet rights under State control, evaluating particularly the influence of political leaders that were subject to internet surveillance during this debate. The focus of this paper is the Brazilian legal and diplomatic response to this international surveillance crisis. In September 2013, at the General Assembly of the United Nations (UN), Brazilian President Dilma Rousseff criticized North-American invasions of private digital services, and defended a protection framework for civil rights and governments. Later on Germany and Brazil proposed a resolution, approved by the UN on 18 December 2013, which criticizes internet vigilance and promotes online rights ' the Resolution 68/167, entitled 'The right to privacy in the digital age'. Meanwhile, in Brazil, a law project to protect internet rights had already been under discussion: created from online forums, it had been waiting for Congressional approval before the NSA leaks involved the Brazilian government in the center of this international affair. This research evaluates how the UN resolution and the Brazilian Internet Civil Law gained support from political leaders affected by espionage attacks, hijacking a public debate concerning internet rights under State control. In this process, free speech, privacy protection and internet neutrality have been 'rewired' (using Ethan Zuckerman's terminology) to State security ' in an unexpected twist, since this episode started with a case of state surveillance to prevent attacks in disregard of users' privacy. This paper is based on the habermasian concept of 'thematization' to build a method of analysis that evaluates how communication practices (particularly online communication, often viewed as beyond borders, limits and control) can be taken as problematic and subject to public discussion and regulation.

Id: 10559

Title: Shomi the Culture: The Netflix Effect and the Canadian Broadcasting System

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Abstract: Advances in technology give rise to new distribution outlets and programming formats, blurring industry and market boundaries and making appropriate and effective regulation increasingly problematic. Not surprisingly, when Netflix launched its video-streaming service in Canada in 2010, the Canadian Radio-Television and Telecommunications Commission (CRTC) found itself grappling with the momentous decision of whether to satisfy consumer, corporate, or cultural interests. Echoing the views expounded in its Exemption Order for Mobile Television Broadcasting Undertakings, the Commission refrained from imposing any regulatory burdens or constraints on over-the-top (OTT) programming services in favor of encouraging the development of the information and communications technology industry. Consequently, the CRTC chose to neither undertake a review of the New Media Exemption Order, nor consider any policy changes that would provide regulated players more flexibility to respond to the activities of OTT service providers. Instead, it decided that it would be 'best to allow the over-the-top market to continue evolving, [for] better measurement tools to emerge, and [for] entities that contribute to the policy objectives of the Broadcasting Act to take advantage of the many opportunities in this new environment.' Over the years, the CRTC's regulatory framework has indeed evolved in response to changes in technology, industry economics and the interests and choices of Canadian consumers. However, 'the overall result has been a complex system of rules built on an old foundation that was never designed to support them' (Menzies, 2013, para. 52). To what extent will OTT television services displace existing pay television offerings? Should the CRTC seek to adopt a technology-neutral approach to regulation? What is the scope for competition, regulation, and innovation of OTT television services? Can existing Canadian content and programming regimes be effectively applied to innovative methods of delivering television content? To answer these questions, this research employs a historical, comparative and critical approach to the study of broadcasting regulatory policy to examine the evolution and structure of competing pay television broadcasting undertakings and describe the ways in which the CRTC's new media exemption should be rescinded in favor of regulating OTT services.

Id: 10638

Title: Legal Kaleidoscopes: Human Rights and the Dilemmas of Free Speech Regulation in Argentina

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Abstract: For the last three decades or so, human rights have become a prominent moral-legal-political discourse within the Argentine political field and they have served as a language to phrase citizens' demands, formulate public policies, and envisage new forms of governance. In this paper I situate the workings of a recently created state agency 'the Audience Ombudsman, in connection with a broader set of public policies in Argentina which have persistently appealed to the ideas and legitimacy of human rights. By focusing on the everyday political deskwork of the Audience Ombudsman, I examine the legal practices through which categories of 'free speech', 'discrimination', 'communication rights', 'hate speech', and others, are being negotiated within the implementation of a media reform currently in place in Argentina. In this way, I explore how public servants, activists and experts engage with human rights ethical and political commitments while at the same time challenge traditional liberal notions of rights and push the reflection on media governance to innovative places. This paper is part of a larger research project on media governance and human rights in Argentina and it is grounded on a nine-month period of ethnographic fieldwork with activists, state agents, and human rights experts in the cities of Mendoza and Buenos Aires.

Id: 10797

Title: Who has the power to change television content' Discussing requirements in the triangle of politic, PSB and the science. A case study on Swiss television

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Abstract: With three official languages, Switzerland has a multilingual and multicultural public sphere (Puppis/Künzler, 2011: 169). One of the most significant discussions in the context of the Public Service Broadcaster (PSB) in Switzerland is (horizontal) integration of the language areas. How integration of the language areas should be established in television programme is discussed between politic PSB and the science. It has been suggested that one essential part of integration is the possibility of public communication (Jarren, 2000: 235). Representation as well as mutual (re)cognition via mass media is seen as an important momentum for intercultural communication (Schönhagen/Trebbe, 2009: 225). In recourse of legislation the Swiss Broadcasting Cooperation SRG SSR (SRG) has to provide two separate TV channels in German, French and Italian (SRG License Art.5 (1)). Furthermore in 2010 a parliamentary motion was submitted and it was pointed out to SRG that more has to be done to support the intercultural exchange and to improve the communication and understanding between the language areas within the existing content (DETEC 2011, 10.3055). Firstly this paper will focus on the empirical research: It presents to what extent the TV channels of the SRG offer information about the three main language regions in their programs. Secondly it examines whether the parliamentary motion improved the coverage of the different language regions. Finally the paper illustrates the discussion between the investigated media, politics and the science since the results of this study were published. In this study the entire 24-hour-programme of the SRG TV channels was recorded and analysed for two calendar weeks each year from 2009 to 2013. Using the method of quantitative content analysis it was possible to examine news, magazines, documentaries and talk-shows. A reference to a region can be placed by topic, locality or by a person. For this study the references were used to explore the dimensionality and intensity a region is dealt with in the media coverage. The results show that firstly the channels primarily focus on the own language region. Secondly the data from before and after the parliamentary motion remain unchanged over the years. Finally the SRG claims that fulfilling journalistic quality constrains the demand of integration in daily journalistic business. The Swiss federal government in contrast sees no conflict of aims.

Id: 10919

Title: Democracy and information and communication rights: the case of Finland

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Abstract: In my paper, I will discuss the role of information and communication rights (ICRs) for democracy. In scholarly discussion two different concepts of democracy are often discerned, those of liberal and egalitarian. While the liberal approach stresses more individual freedom, the distributive one emphasizes more social equality. Although the concepts of information and communication are central to both approaches, the differences outlined above can be observed also in how people's rights to information and communication are defined and justified. Briefly, in the liberal view, negative rights are emphasized while the egalitarian view stresses more positive rights. However, the liberal and distributive approaches to democracy must be understood as ideal types and as the opposing poles in a continuum. How ICRs are realized and located in this continuum depends on historical socio-political and cultural conditions in each country. In the paper I will first, locate the concept of deliberative democracy in the continuum between liberal and distributive approaches, combining both the negative and positive aspects of ICRs. Second, I will argue that as the concept of deliberative democracy is strongly based on the notion of informed citizenship, it must necessarily include a distinct concept of citizen's ICRs, which I divide into five dimensions: the rights to access, availability, competence, dialogue, and privacy. Lastly, applying the conceptual analysis above as a research model, I will critically analyze the state and development of citizens' ICRs in a small North-European country, Finland ' often seen as a member of Nordic social democracies ' from the early 1990s to today. According to early conclusions, a clear shift from the more egalitarian understanding of ICRs towards a liberal approach to ICRs can be observed. Today, the role of the state is understood more guaranteeing individual freedoms in relation to information and communication instead of safeguarding citizens' positive ICRs.

Id: 10998

Title: Social impact on communication laws and policies making process in Latin America

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Abstract: Communication law and policy-making processes in Latin America have historically been captured by political and economic elites. Nevertheless, recent communication laws and policies reforms show unusual civic participation and social impact. Civil society has organized around issues related to pluralism, freedom of speech and information access since the democracy returns in the 1980s. It intensified its mobilization during the political and economic crises in the late 1990s and early 2000s. Social demands can be joined in two groups: the ones that tend to reduce the historical dominance of private sector in media systems; and the others that try to reduce the states control of information and expression. In the first group, there are movements tending to regulate media property, limit property concentration, and legalize community and native media. The second group includes organizations aiming to regulate information access, official advertising and public media, decriminalize slander and revoke disrespect laws. Our questions are: 1) Which of these two types of demands have had more impact on communication law and policy-making processes in Latin America countries during last 15 years? 2) Which were the conditions and the strategies that made it possible? First, we will identify which civic demands succeeded to translate in new communication laws and policies. Second, we will compare opportunities (political, media and technological junctures) and practices (discursive arguments, coalitions, lobby, public debate, street mobilizations) of civil organizations that supported those demands. In this step, we will deepen the analysis on a limited number of cases. In our research, we examine information from different types of documents, and interview social leaders and government officials. This analysis challenges the vision of public policies exclusively defined by political and economic elites. Instead, we recognize the role of social actors and power disputes involving the rules and policies framing. Therefore, we define communication laws and policies as controversial processes (Freedman, 2013). We assume the heterogeneity of civil society and its relative autonomy from market and state. We reflect the complexity of these areas and their interrelationships (Sorj, 2010). This poses the discussion about the link between complex systems of representative democracy and participatory mechanisms (Del Águila & Vallespín, 2003). We consider the democratization of communications as a necessary condition for political democratization (Mata, 2006). Our hypotheses are: 1) Social demands tending to reduce the power of private sector have had more impact on new communication laws and policies in XXI century in the region. 2) Civic demands found receptive governments in leftist administrations that came to power in the 2000s. These governments seem to be

more willing to reduce the power of some media corporations and empowered civic actors, than to reduce their own power to manage public information, official advertising or public media. In addition, social demands found a sympathetic public opinion. They also concurred with private companies interests amidst the process of technological convergence and changes in media industries. Besides, these propositions were made when the topic of the democratization of communication reappears in the international debate.

Id: 11006

Title: Towards a typology of online peer-production platforms

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Abstract: Online peer-production platforms -- integrated web-based platforms that support peer-production and mass collaboration -- facilitate coordination of creative work and services. A continuum of peer production models exists, having commons-based peer-production and crowdsourced, user-generated content captured by corporations as its two extremes, combining different social, political, technical and economical arrangements. This article proposes to embrace the variety reflected in the recent proliferation of peer-production arrangements, and intends to provide a first attempt towards its systematization. To this aim, we propose a typology of peer-production platforms that untangles the various features of this mode of production according to their levels of (de)centralization. The five selected platform features of the proposed typology include the ownership of production means, the technical architecture or design, the social organization/governance of work patterns, the ownership or control of the peer-produced resource, and finally the value deriving from the platform. We make the hypothesis that a combined analysis of the (de)centralization of these different features can inform on users' autonomisation capabilities in a more granular way than a more classical, market/non-market qualification of platforms, based on the nature of the business model and its owner. Illustrating our typology by means of several examples, used as test cases, we elaborate a classification of peer-production platforms, identified as having relevant features or traits in common. This typology is proposed as a methodological tool for future research in peer production, and may ultimately be useful in order to assess what is the most suitable underlying organizational form and design - i.e., the ideal 'mix' of (de-)centralization in technical architecture, ownership and governance arrangements - for peer-production. Our work builds upon several different strands of literature, in particular on collaboration, crowdsourcing, peer production (and commons-based peer production as a more specific case), as well as recent work that addresses the decentralization of networked architectures, applications and infrastructures as a means to promote, leverage, protect or achieve specific values or norm-making processes. Peer production platforms generally foster claims of self-organization, community values and shared objectives, although as we will demonstrate, these take shape in a variety of forms. For the purpose of this paper, we will not investigate the

possible gap between these claims and their implementation in practice, as this is an investigation which would require in-depth, qualitative case studies of the different platforms. Thus, our analysis relies almost exclusively on the documents produced by the developers, owners, and users of the platforms, to be found online (terms of use, privacy policies, 'charts' outlining the rights and obligations of users, release notes of the different technical versions of the platforms). It also draws upon the observation and engagement with the technical platforms, in particular with their interfaces, to the extent they shape governance as much as written documents. This research is supported by the Framework programme FP7-ICT-2013-10 of the European Commission through the project P2Pvalue (grant no.: 610961).

Id: 11070

Title: LA TRANSPARECIA INFORMATIVA COMO BASE DEL DERECHO A LA INFORMACION

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Abstract: Son muchas las parcelas que inciden, de una manera u otra, en el derecho a la información. Sin embargo una de ellas, la Transparencia Informativa, es sin duda una de las razones fundamentales que sustentan las tres facultades que configuran dicho derecho, en palabras de la DUDH de 1948. Efectivamente la función periodística tiene como uno de sus ejes prioritarios la facultad de investigar, fundamentalmente de aquellos hechos de la actividad política, que le permitan ejercer su función prioritaria de vigilancia de la res pública, a fin de que los ciudadanos pueden contar con los datos que contribuyan a formarse una recta opinión de los acontecimientos sociales, económicos y políticos. Esta facultad se une inexorablemente a la de difundir, segunda de las que componen el derecho a la información, en el orden cronológico de hecho informativo. Esa difusión es esencial para el fin antes señalado, ya que de nada serviría una investigación adecuada si se quedase sin ser conocida. Ambas facultades tiene, en el terreno de la transparencia informativa, un peligro claro y demasiado común por desgracia que no es otro las distintas clases de censura que puede condicionar la labor investigadora y difusiva. Por ello es necesario examinar a la luz de la transparencia informativa, las coordenadas en que se deben de mover ambas facultades. Y finalmente la facultad de recibir, propia de los ciudadanos y consecuencia lógica de una adecuada política de transparencia informativa. El estudio de estas tres facultades en relación con la censura y la política adecuada de transparencia informativa es la que configura mi ponencia, un intento de abordar desde el puro derecho a la información, las soluciones prácticas que el problema demanda.

Id: 11194

Title: LA CARA Y LA CRUZ DE LOS BIG DATA. ¿UNA HERRAMIENTA AL SERVICIO DE LA TRANSPARENCIA O UN MEDIO MÁS PARA LA MANIPULACIÓN'

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Abstract: La información se ha convertido en la protagonista indiscutible del siglo XXI. El derecho a saber, la necesidad de saber, la conciencia de que la información es poder y que sólo con el conocimiento podremos derribar las barreras de la corrupción y el abuso de los poderosos ha invadido la conciencia colectiva, ávida de datos, datos que reclaman a sus gobernantes influidos, posiblemente, por el eco de aquel sueño loco de un tal Assange. Así que eso se nos da: cifras puras manipuladas a su antojo y disfrazadas de un halo de pureza indiscutible. Parece que un dato desnudo no puede mentir. Y puede que no haga, pero que tampoco diga toda la verdad. Porque los datos solo tienen sentido cuando aparecen incrustados en una realidad concreta. Por ejemplo, si decimos que el paro bajó un 15%, es indiscutible que es un dato positivo. Pero si ese dato se relaciona con que es enero y que todos los puestos de trabajo creados fueron temporales de corta duración, observamos que ese dato que se nos antojaba tan positivo, quizá no lo sea tanto. No mienten los datos, no, pero a veces llevan máscara. De esta realidad han sabido hacer buen uso gobernantes y opositores, cuyas informaciones muchas veces se reducen a 'vomitar' datos y porcentajes que, curiosamente, aun tratando sobre una misma cuestión, resultan ser contradictorios (índices de delincuencia, índices de empleo, reparto del gasto público, asistentes a una manifestación') Ninguno miente sobre los datos pero todos manipulan la información utilizando aquellos datos que más les favorecen. Traicionando la transparencia de la que hacen gala. En este trabajo tratamos de demostrar que los políticos utilizan los big data como elemento de manipulación seleccionando las fuentes que más interesan a su discurso, haciendo caso omiso al derecho a saber que desde las calles solicitan sus conciudadanos.

Id: 11277

Title: RURBANIDAD Y MEDIOS DE COMUNICACIÓN. CONSUMOS DE TELEVISIÓN EN UNA AGROCIUDAD LATINOAMERICANA

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Abstract: El diálogo entre las teorías sociocomunicacionales de Europa y América Latina contribuye a visualizar particulares procesos actuales de mediatización de la comunicación en el dinámico y complejo espacio urbano latinoamericano. Si en la ciudad moderna del siglo XXI una de las principales prácticas consiste en mirar y ser mirados, cabe identificar los ubicuos consumos de la televisión dentro y fuera del hogar en las diferentes aglomeraciones urbanas, y en particular la agrociudad de la pampa argentina, como una experiencia básica de la vida contemporánea. La(s) ciudad(es) son abordadas ampliamente desde la teoría sociocultural pero prevalece un abordaje unidimensional desde múltiples perspectivas: núcleo del desarrollo industrial y la concentración capitalista, texto resultante del acelerado intercambio de mensajes, espacio social diferente del rural, enclave desplegado a lo largo del tiempo histórico, discurso ficcional alternativo movilizador de deseos sociales y tensión narrativa entre una ciudad real y una ausente. La modernidad avanzada comprende los simultáneos procesos de globalización, urbanización, individualización y mediatización, entre otras dinámicas. Con la mediatización los procesos centrales de actividades socioculturales como la política, la religión y la educación resultan influenciados y dependientes de los medios de comunicación. La importancia de la televisión y otros dispositivos alude a su presencia dentro de la sociedad como una institución semi autónoma y al mismo tiempo integrada en otras instituciones sociales. Así, los habitantes urbanos viven como en estado de televisión. En consecuencia, cabe un análisis socio-comunicacional de las ciudades de la región pampeana argentina y de los consumos mediáticos de la población urbana que no reproduzca cierta tendencia unidimensional y dicotómica de la teoría social. Es decir, dado que el interior de la pampa argentina se caracteriza históricamente por el predominio de la agricultura ahora globalizada bajo el modelo del agronegocio, corresponde asumir una perspectiva sobre la posibilidad de hibridaciones o mixturas en el despliegue de unos sistemas urbanos que siempre se constituyen dinámicamente en referencia a un contexto multidimensional. La rediscusión del concepto de 'agrociudad', en general acotado al reconocimiento de territorios urbanos con predominio de la actividad agroindustrial, parece pertinente para analizar, desde una perspectiva relacional e histórica, varias ciudades de dicha región conformada por cinco provincias centrales de Argentina. Al mismo tiempo, cabe identificar la especificidad de los consumos culturales mediatizados de estos particulares territorios en algún sentido 'rurbanos', o sea al mismo tiempo urbanos y rurales. Un estudio con estos propósitos comprende tres operaciones

integradas en una estrategia de convergencia o triangulación metodológica: a) la discusión sobre los antecedentes, la pertinencia y la relevancia de la noción de 'agrociudad' en el marco de la teoría sociocultural para desentrañar sus implicancias en los estudios sobre la relación entre comunicación, medios y territorios urbanos; b) el análisis de datos secundarios sobre los consumos de televisión en los hogares de una particular configuración urbana como la ciudad de Río Cuarto (Córdoba, Argentina); y c) una exploración etnográfica de otros lugares de esta urbe mediana que describe ciertos modos de exposición a la televisión también cotidianos y externos a los espacios domésticos.

Id: 11282

Title: PANEL Communication, Hegemony and Power: Latin American perspectives

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Abstract: Paper title: Digital democracy and right to information laws: advancements and shortcomings in Latin American countries Contemporary democracies face the increasing use of information and communication technologies by governments to facilitate access to public services and disseminate information about the performance of public policies, providing transparency and accountability. However, in Latin American countries, digital democracy initiatives and government communications need first to get over practices historically held in the subcontinent, which associate official communication with the political propaganda of the powers in office. Laws on information rights passed in the last 15 years in the subcontinent have pressed further for changes in the way governments used to communicate with citizens. Current regulations prevent the use of selective recall of past events and pieces of data for political advertising goals, and require public authorities to disclose full information on public policy outcomes. The collective right to information, expression, dialogue and participation tends to be strengthened in this process, although advancements cannot be taken for granted, as obstacles from a political culture of authoritarianism and lack of accountability still exist. This paper looks into how Latin American countries have been dealing with the cultural legacy of their past of military rule in order to overcome authoritarian practices of government and secure the right to information on public policies through public communications and digital democracy. We examined right to information laws and official communications in digital environments, seeking to identify how legislation has been followed by norms and standards of digital democracy to guide practices and policies of pro-active transparency. We noted that although many right to information laws require governments to maximize the usage of online tools to disclose information pro-actively, government web portals lack appropriate codes of conduct to establish proper practices of openness and transparency. We gathered empirical evidence from literature review suggesting that this lack of guidance could be part of the reason why web portals still struggle to fulfill their duties as imposed by legislation. This context calls for specific cross-country research projects regarding communication, hegemony and power in the subcontinent, following a global agenda of interdisciplinary investigation on the subject.

Id: 11334

Title: DERECHOS DE LOS CIUDADANOS EN EL GOBIERNO ABIERTO: REGULACIÓN, AUTORREGULACIÓN Y EFECTOS NO DESEADOS DE LA NORMA

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Abstract: PRINCIPAL PREGUNTA DE INVESTIGACIÓN: El uso de TIC en las relaciones de poder entre el gobierno y sus ciudadanos ¿potencia o va en detrimento de determinados derechos fundamentales' ¿O el ejercicio de algunos de éstos puede vulnerar otros'MARCO TEÓRICO:La Conferencia de la AIERI 2015 tratará diversos temas en torno a un eje: el poder ambiguo de la comunicación. En este sentido y teniendo en consideración lo que se plantea en la sección Law de dicho evento, la presente propuesta intenta realizar un análisis de los actores y factores que intervienen en las diversas formas de comunicación que plantean las Tecnologías de la Información y la Comunicación (TIC) entre gobernantes y gobernados y el papel que el Derecho juega en el contexto de la mencionada situación.El análisis se centra sobre todo en el estudio de los derechos fundamentales que pueden verse involucrados en esa relación y los desafíos que formatos tales como el de Gobierno abierto pueden implicar.Los principales modelos que se abordarán son el español y europeo, pero también se hará referencia al caso mexicano. En esas tres regiones el derecho a la información y la libertad de expresión están reconocidos en el Derecho positivo a nivel constitucional, pero vista la incidencia de las nuevas tecnologías, la autorregulación se ha erigido como alternativa que complementa a lo regulado, sobre todo cuando aparecen ciertas áreas sobre las cuales se ha decidido no legislar, puesto que se teme a un efecto adverso de esa acción. Y, si se toma en cuenta el verdadero potencial que tiene el uso de TIC en las relaciones de gobierno con sus ciudadanos, un derecho más moderno, cual es del acceso a dicha tecnología y a Internet, se torna también esencial.MÉTODOS: Se analizan ordenamientos y políticas públicas o de planeación de Open Government (puesto que en su caracterización las TIC tienen papel nodal) en España, Europa y México, así como la regulación existente en relación a los derechos estudiados y las medidas de autorregulación tanto desde el punto de vista social como empresarial y gubernamental, en el desafío del uso de las TIC y la interacción ciudadana con el poder. Los ordenamientos que serán referidos para el análisis de ese impacto son los españoles (Constitución de 1978 Ley 15/1999 de Protección de Datos de Carácter Personal, Ley 19/2013 de Transparencia, Acceso a la Información Pública y Buen Gobierno), los europeos (Directiva 95/46/CE relativa a la protección de las personas físicas en lo que respecta al tratamiento de sus datos personales) y los mexicanos (Constitución Política reformada en 2009 y 2013, Ley Federal de Protección de Datos Personales en Posesión de los Particulares y Ley de responsabilidad civil para la protección del derecho a la vida privada del Distrito Federal,

así como la Ley Federal de Transparencia y Acceso a la Información). Se estudian los derechos involucrados y en particular el derecho a la información y la libertad de expresión, como derechos frente al poder hegemónico, y el derecho de acceso a Internet y TIC como herramientas para el ejercicio de los otros derechos frente al poder de los Estados o hegemonías. Asimismo, el análisis hermenéutico de la legislación se complementa con las aportaciones doctrinales que han tenido como objeto de estudio, parte de lo que nos ocupa en este trabajo. Tiene particular interés la doctrina desarrollada por José María Desantes Guanter en torno al Derecho de la Información, como disciplina que ha sido marco para el análisis de los fenómenos asociados a la información, en donde ésta también aparece como 'poder' en manos de fuerzas hegemónicas, pero también de aquellas que no lo son y que pueden ser las que detentan los ciudadanos.

Id: 11346

Title: PANEL "Communication, Hegemony and Power: Latin American perspectives"

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Abstract: PANEL the paper seeks to expose and discuss major advances and setbacks in communication rights in Mexico after the approval of the Telecommunications and Broadcasting Act in 2014, in order to incorporate new objects and processes of research & reflection in Latin America Media & Telecom Landscape. The paper focuses on the rights around the Internet.

Id: 11351

Title: The Ongoing Battle for Open and Accessible Internet in the United States: the Use and Abuse of Media Regulations Governing Municipal Broadband

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Abstract: This paper explores the long and winding road to a more open Internet in the United States, and analyzes how city, state, and federal laws have been used to enable or restrict access, affordability and a competitive market. U.S. media policy makers have attempted to rework regulations governing Internet architecture, infrastructure and access for the past two decades. While U.S. broadband compared favorably to other OECD nations in 2000, by 2010 it had fallen to the middle of the pack. In addition, Internet Service Providers (ISPs) have lobbied the U.S. Congress and Courts to deregulate the market for Internet service, allowing them to 'manage' Internet traffic and eliminate direct competition. A lightly and inconsistently regulated market for broadband in the U.S. has generated mediocre service that is relatively slow and significantly more expensive than offerings from economic competitors abroad. Beyond this, a neutral and expanding network is a public good, as is participation in a networked public sphere. Benkler and others laud the shift from the 'hub-and-spoke architecture' of mass media to the 'distributed architecture' of interactive, multidirectional media, which connects all parties in communities, large and small. Following Fitzgerald and Freedman it is clear that even with a variety of tools for intervention (legislation, regulations, support programs and government agency rulemaking), U.S. public policy has largely abdicated and allowed for private sector decision-making and increased marketization. Popular engagement, civic growth, and hegemonic resistance are limited by inequalities in access and by market dominance (Hesmondhalgh, Murdock, etc.). In this paper I contend that the current market for Internet quality and access is not supporting the growth of many local industries within a number of U.S. municipalities. Many cities would like to foster growth by launching public Internet initiatives, but there has been a concerted political campaign to stop them, using a variety of legislative levers to do so. Some twenty U.S. states have passed legislation making it difficult or impossible for municipalities to offer Internet services. In a number of cases the legislation is being crafted by the telecom funded American Legislative Exchange Council (ALEC). One example can be found in Chattanooga, Tennessee, where they have launched a taxpayer-owned fiber-optic network, bringing in a flood of computer programmers, entrepreneurs and investors. The expansion of internet infrastructure in Chattanooga was made possible through a 2009 federal stimulus grant, and communities in Lafayette, Louisiana and Bristol, Virginia, have also followed the same policy. In Georgia, a coalition of cities and counties defeated a bill that would have prohibited municipalities from building local broadband networks. In many other states, however, laws prohibit cities from launching broadband services

except in 'unserved areas,' which are then so narrowly defined that no area could be considered unserved. Such legislation limits competition, prioritizing incumbency over price and quality, effectively removing the incentive to improve services and to extend services into lower income communities, or even areas with a sole Internet service provider. As Internet quality and access in the U.S. continues to fall behind industrialized standards for development, an increase in competition is needed to spur growth. As the Federal Communication Commission (FCC) votes on stronger net neutrality rules, a parallel project is being launched. President Obama recently announced federal guidance for municipalities that want to set up Internet service in contravention of their state laws. Wilson, North Carolina and other cities have requested federal preemption of state laws allowing them to expand service and access. I analyze legal documents and agency statements about these community-based efforts to beat back corporate dominance. FCC rulemaking regarding Net Neutrality is the most significant regulatory intervention into the U.S. media marketplace since the Fin-Syn rules in 1970. U.S. Mayors, members of Congress, State Governors, the President, FCC commissioners, Internet Service Providers, and Internet Investors' a host of political players and economic forces are converging to control the Internet. This study explores how what might be considered a minor skirmish in small town America, is actually the front lines in the ongoing battle for open and accessible Internet in the United States.

Id: 11373

Title: Traditions and possibilities of communication research in Latin America

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Abstract: El propósito de esta ponencia es referir las tradiciones y posibilidades de la investigación de la comunicación en América Latina, región que cuenta con un importante número de asociaciones nacionales, así como los trabajos que por casi 40 años ha venido desarrollando la Asociación Latinoamericana de Investigadores de la Comunicación, ALAIC. Es difícil resumir los ejes de interés que durante estas décadas han aglutinado los estudios latinoamericanos, sin embargo y a pesar de importantes cambios de sentido experimentados por la educación superior en la región, podemos destacar ámbitos privilegiados de la investigación: comunicación educativa; economía política de la comunicación y la cultura; los marcos legales que rigen el funcionamiento de los medios de comunicación; así como el periodismo y la libertad de expresión. Junto con estos ejes históricos, los investigadores latinoamericanos han abordado temas de frontera y coyunturales que le han permitido reconocer y difundir los desafíos que presenta el campo de conocimiento, así como plantear los retos que se presentan.

Id: 11427

Title: Ag-Gag Laws: Legislating an Ethical Solution to Journalistic Practice'

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Abstract: **Methods:**This paper undertakes a comprehensive review of existing 'ag-gag' statutes ' laws aimed to limit investigative reporting into agricultural practices ' that have been passed in the United States. Since the rise of the citizen journalist and Internet communication, at least 7 states in the United States have passed laws that make it a crime to record video or audio in an agricultural setting without the owner's permission. The paper will evaluate the constitutionality of the existing statutes, as well as proposed legislation, and examine whether these are legislative attempts to mandate ethics in the practice of journalism.**Justification:**In January 2015, four animal rights activists in Utah were charged under the state's ag-gag law, which criminalizes taking pictures and recording audio or video at agricultural production facilities. To date, this is the second time a so-called 'ag-gag' law has been enforced in the United States. The laws are aimed to discourage undercover reporting and whistleblower activity designed to expose failings in the operations of farm operations. However, many who are opposed to the laws believe they run afoul of the U.S. Constitution's free speech protections and are designed to impair journalists' ability to engage in investigative reporting that would shed light on unlawful agricultural practices. This article argues that instead of unconstitutionally legislating in the area, we should instead rely on the protections of traditional journalistic ethics to evaluate conduct on a case-by-case basis. Although only about a dozen states ' including Iowa, Kansas, Montana, North Dakota and Utah ' have passed this legislation, numerous other U.S. states have considered and continue to consider similar bills. Further, as factory farming spreads globally, concern has arisen about whether similar laws could be introduced in the UK and throughout the EU. To date, no comprehensive study of the enacted legislation has been conducted to compare it with existing codes of journalistic ethics. Preliminary research suggests that such laws unnecessarily limit freedom of speech and meaningful investigative journalism without significant benefits to society.**Research Objectives:** This article seeks to examine and evaluate current laws with the goal of determining whether the legislation ' currently being challenged in court ' is a constitutional approach to mandating journalistic ethics or whether the public and the journalism community at large would be better served by the application of traditional codes of ethics and conduct, such as those from the Society of Professional Journalists, the Investigative Reporters and Editors or the Radio/Television News Directors Association.

Id: 11482

Title: Panel Communication, Hegemony and Power: Latin American perspectives

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Abstract: Paper title: Hegemony, anti-hegemony, and power in one historical perspective / Hegemonía, contra-hegemonía y poder en una perspectiva histórica Este trabajo forma parte de las reflexiones teóricas del Grupo "Rupturas Metodológicas para una lectura crítica del periodismo". Proponemos un debate sobre las tensiones que implican el periodismo en unos tres ángulos al mismo tiempo complementarios y contradictorios: la tecnología, el medio ambiente y la institución. El desarrollo del periodismo en la modernidad le consolida como una práctica social, una determinada manera de narrar la realidad, un importante servicio público y una actividad que, por retratar las relaciones y luchas por el poder, es también un área para luchar por el poder simbólico. Sin embargo, el periodismo tiene muchas caras: en los modelos desarrollados en las sociedades latinoamericanas poscoloniales es también una relación de fuerzas económicas, un tipo híbrido de cuasi-monopolio controlado por unas pocas familias, sino también un espacio de las demandas sociales, de búsqueda por la modernidad y lucha por mejoras en la calidad de vida. Insertado en esta relación, tratamos de reflexionar sobre las características del periodismo en América Latina, particularmente en Brasil, sus barreras comerciales y las relaciones productivas. Para alcanzar estos objetivos, trabajamos a partir de tres autores: Max Weber, principalmente de los textos de "Sociología de la prensa": y "Un programa de investigación y la objetividad del conocimiento en ciencias sociales y ciencias políticas"; Otto Groth, discípulo de Weber, en el texto "La Ciencia de los periódicos - la tarea de la investigación científica en la cultura"; sino también basándose en las reflexiones de Martin-Barbero, y la percepción de que el receptor del mensaje no sólo recibe mensajes sino parte del proceso de comunicación. Se entiende que el periodismo se desarrolla a partir de los procedimientos de mediación, por el que grupos de expertos, por lo general con la formación profesional y el conocimiento práctico y teórico para la mejora de la eficiencia de los procesos de comunicación, para servir como dispositivos técnicos / tecnológicos para difusión de contenidos simbólicos a un público numéricamente significativo, disperso geográficamente y que si bien pueden converger en algunos puntos, también tienen un importante grado de heterogeneidad. Como punto de partida la investigación expresa, por lo tanto, una diferenciación intencional de términos medios y medios de comunicación, con la suposición de que el periodismo cae en un proceso de comunicación mediada, ya que los medios utilizados para hacer son altamente dependientes de la técnica tecnológica, una condición que interfiere con los procesos de comunicación y la sociabilidad humana, sino que también se une a sus elementos definitorios: la precisión, oportunidad, universalidad y periodicidad, que consolidan su relación con los receptores (público) y crea su capital de credibilidad simbólico (SODRE,

2009, p. 42). Es por tanto un enfoque para el periodismo latinoamericano como un espacio simbólico que desencadena diferentes posibilidades de mediaciones y cambiantes complejas, en particular el análisis de la cuestión de (multi) interacciones, el formato de las audiencias y el contrato de lectura, en un análisis la búsqueda de una comprensión más amplia de esta actividad en el contexto latinoamericano.

Id: 11513

Title: PANEL Communication, Hegemony and Power: Latin American perspectives

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Abstract: With Latin American Researchers from four different countries (Mexico, Argentina, Brazil, and Uruguay), this panel proposal looks for stimulate the debate on perspectives in Latin American Communication Research about Communication, Hegemony and Power. For that, the panel begins with Delia Crovi presentation on Traditions and possibilities of communication research in the region that cover more than 450 million inhabitants. Crovi (ALAIC president) wrote a panorama about research in the subcontinent institutions (mainly, universities and scientific associations). The region accumulates more than 40 years debating and investigating important and necessary subjects like freedom expression and legal marks. The panel also includes selected presentations by an open call among Latin American Researchers. This selection received and chose papers in a plural perspective. This diversified method allowed including texts about Hegemony, anti-hegemony, and power in one historical perspective by Marialva Barbosa, president of Brazilian Communication Research Association (Intercom), and reflections about journalism, mediations and power developed by Ana Carolina Rocha Pessôa Temer, professor at Federal University of Goias, Brazil. Law and Right to communicate was theme of a paper developed by a Mexican researcher (María Elena Meneses, from Monterrey) on the possibilities and barriers inserted in the new Mexican Law. Also using analyse of law impact, Danilo Rothberg (State University of Sao Paulo, Brazil) understood the Right to Information as a tool to promote changes in the last fifteen years in Latin American countries, pressing further for improvements in the way governments used to communicate with citizens. To conclude the panel, exemplifying the diversity on Communication Research in Latin America, and stimulating a reflection about the limits and possibilities of methodological reaches, the panel also receives a presentation about 'Rurbanity' and Media: Television Consume in a Latin American. The paper, wrote by Edgardo Carniglia (National University of Rio Cuarto), expressed the relationships among communication, media and territories taking in account a research developed in Argentina using ethnological approaches.

Id: 11527

Title: Copyright law, ICTs and access to educational materials in Brazil

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Abstract: Debates around access to knowledge have been developing steadily since the late years of the 20th century, with rich conversations relating to the ways we think about citizenship, education and communication processes, particularly motivated by the problems caused when disruptive potential of ICTs clashes with outdated legal frameworks (Aufderheide and Jaszi 2011; Benkler 2006; Boyle, 2008; Deazley 2006; Deere 2008; Lessig 2004; Netanel 2009; Jenkins, 2006; Willinsky 2006). Against this backdrop, the contradictions between pirate practices and the limits of copyright enforcement continue to be a fertile ground for intellectual inquiry (Drahos and Braithwaite 2002; Johns 2010; Karaganis 2011; Lobato 2012; Sell 2003). With this set of references in mind, as well as the opposing cultures of strict law enforcement versus counter hegemonic practices of content consumption and distribution, the present paper looks into the specific issue of access to educational materials in the developing world. As we transition to a pervasively digital world, with increasing rates of internet penetration and easy access to ICTs, new questions emerge within the traditional access versus protection mindset. How reliant are students on digital educational materials, as opposed to the historically dominant photocopies? How do they interpret and understand the impact of copyright law on education, in a world where controversies on piracy and the business models for the creative industries have become mainstream, with very polarized discourses? How are universities, publishers, Internet startups, students and professors organizing and justifying their practices? What are the power relations that are inherent to the behavior of publishers vis-à-vis universities, students, professors, and the State? How is digital distribution of content and ICTs constituting/shaping the forces that will dominate the playing field for the distribution and access to knowledge, informational resources, and communication processes? These are some of the questions that we attempt to address, reporting the main findings of a broader 2-year, multi-country investigation, focused on the access to educational materials among university students in developing countries. During the aforementioned project, a survey with more than 2000 Law, Communications, and Medicine undergraduate students was conducted in the city of Rio de Janeiro, as well as focus groups with students of the same courses. A number of in-depth, semi-structured interviews were also carried out with professors, publishers,

libraries, government, and Internet companies, to understand the increasingly complex ecology of players, institutions and practices that gravitate around the issue of the conflicts between access to education and copyright law.

Id: 11540

Title: PANEL Communication, Hegemony and Power: Latin American perspectives/
Title of this presentation: Hegemony, anti-hegemony, and power in one historical perspective

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Abstract: Dado el nuevo panorama mediático en que vivimos hoy en día, en el que los parámetros tecnológicos modifican la relación del público con los medios de comunicación, los conceptos de hegemonía y contrahegemonía serían suficientes para explicar las relaciones de poder que dan forma a lo contemporáneo o si serían teóricamente necesario pensar de acuerdo con la ruptura epistemológica visto desde mediados del siglo XX' Pensando el conocimiento en una dimensión histórica y antes de la aparición de reflexiones sobre la naturaleza representacional de lo vivido, sería posible explicar la compleja cuestión de las relaciones de poder en vista del paradigma gramsciano de hegemonía y contrahegemonía' Estas explicaciones, a nuestro juicio, serían determinadas históricamente, es decir, estando en línea directa con los procesos históricos de los medios de comunicación en América Latina en el momento configura la aparición, el desarrollo y el auge de los medios de comunicación. Ante esta declaración, De que manera los conceptos de Gramsci productos explicación / comprensión de los procesos de comunicación del siglo XXI básica' Al principio, el trabajo analiza los principios epistemológicos del periodo de post-ruptura de los años 1960, para después mostrar cómo los conceptos de hegemonía y contrahegemonía son importantes en la explicación histórica de la conformación de los medios de comunicación en América Latina (particularizante el enfoque de las explicaciones de los procesos que ocurren en las empresas de periódicos brasileños a principios del siglo XX). Y, por último, el artículo trata de demostrar que la elección del marco conceptual puede constituir un modelo interpretativo / integral que es operado por el investigador para producir reflexiones que integran las áreas del conocimiento, teniendo en cuenta la elección de los conceptos clave que se convierten, de esa manera, históricamente determinado.

Id: 11542

Title: A Comparative Analysis of U.S. and Indian Laws in the Context of Unauthorized Hollywood Remakes to Bollywood

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Abstract: Bollywood has been making unauthorized remakes of Hollywood or 'inspired from Hollywood movies as they are called, for years. In 2008 as much as 46 percent of Bollywood's films were unauthorized Hollywood remakes (Shah, 2012). Remakes often expand the original stories to include plots that focus on families and social relations, throw in song and dance and a lot of emotions. Thus, Indian filmmakers who create unauthorized remakes of American movies often assert that the 'Indianization' of American films creates a distinct, non-infringing, product (Basi, 2012). Globally as the audience of Bollywood increases, especially in the Arab countries, Hollywood producers have started taking a notice and on some occasions, have started suing the Indian producers for infringement of copyrights. This paper is a case study of the four court cases in which a Bollywood director or producer was sued by a Hollywood producer for lifting content from their Hollywood movies. These are only four cases that have so far been filed in the Indian court system for copyright infringement. The paper examines the court decisions and if there was an out of court settlement, then explains how the law played out when it came to copyright violations, infringement and fair use laws in an international context. The paper further argues why in spite of a high likelihood of proving copyright infringement why is it not profitable for Hollywood studios to pursue Bollywood producers and if there is a middle ground where the two movie producing markets could meet. The four cases the paper examines are: the 2004 case *Bradford v. Sahara Media Entm't Ltd.*, where British novelist Barbara Bradford alleged that an Indian television series entitled *Karishma-The Miracle of Destiny* to be aired in Sahara TV channel was an unauthorized adaptation of her novel. *A Woman of Substance*. In 2008, Warner Brothers sued *Mirchi Movies* for trademark infringement of its Harry Potter franchise (*Warner Bros. Entn't v. Kohli, 2008*). *Mirchi Movies* was set to release *Hari Puttar: A Comedy of Terrors*. In 2009, Twentieth Century Fox filed suit for copyright infringement against the Mumbai based film production company, *BR Films*, (*Twentieth Century Fox Film Corp. v. BR Films & ANR*). For making the movie *Banda Yeh Bindaas Hai* which Twentieth Century Fox was a blatant copy of the movie *My Cousin Vinny*. In October of 2010, Twentieth Century Fox sued the makes of the movie *Knock Out*. In *Twentieth Century Fox Film Corp. v. Sohail Maklai Entm't Pvt. Ltd.*, Sohail was accused of unlawfully copying and remaking Twentieth Century's 2002 thriller *Phone Booth*. The purpose of the paper is to understand the adaptation of movies from a legal and policy perspective rather than a content creation perspective. With the increased flow of the media content across the globe protecting copyright on content is becoming more

difficult and hence it is important to enhance our understanding of content adaption and the legalities that are involved there in. References Basi, H. (2011). Indianizing Hollywood: The Debate Over Copyright Infringement by Bollywood. *UCLA Ent. L. Rev.*, 18, 33-180. Shah, A. (2012). Is Bollywood Unlawfully Copying Hollywood' Why' What Has Been Done About It' And How Can it be Stopped'. *Emory Int'l L. Rev.*, 26, 449-1161.

Id: 11543

Title: When Municipal Competition is a Threat: Exploring the History of Corporate Challenges to Municipal Communications Provision

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Abstract: Incumbent internet service providers in the United States, primarily large telephone and cable companies, have been waging legal battles against municipalities that have established broadband infrastructures, citing unfair competition as their primary objection. Municipal broadband providers in Wyoming, Tennessee, and other areas faced stiff resistance to their ventures and cable companies and other lobbyists have managed to have restrictions on municipal ownership adopted in 20 states. This paper traces the history of corporate resistance to municipal ownership of telecommunications, starting with the telephone and the telegraph and ending at the more recent battles over cable and the internet. The research finds similarities across more than one hundred years of communication history (see, for instance D. Schiller's 1998 work on independent telephone companies). Using critical political economy (Mosco, 2009; Schiller, 1995), this research explores the battles of small municipalities and electric companies willing to wage battle with large incumbents to challenge the hegemonic corporate structure of internet (and other communication) service provision in the United States. As a result of incumbent lobbying, corporate ownership of telecommunications and information services have been granted priority over public services with a mandate to serve all of a region's users. Scholars, such as Susan P. Crawford (2014), have argued that despite the incumbents' strong resistance, municipal telecom networks are the best solutions to the U.S.' lagging and oligopolic internet infrastructure, especially for consumers. In light of the current struggles over network neutrality and the U.S. Court of Appeals for the District of Columbia's 2014 decision that the FCC's net neutrality rules overstepped its authority, scholars and activists have increasingly looked towards municipal ownership as a way out if net neutrality ends. Of course, in many states with regulations hindering municipal ownership, the public will have few available options. To do conduct this analysis of corporate challenges to municipal ownership, historical methods are employed to identify and analyze court documents, state legislation, and newspaper articles about disputes over municipal ownership of communications and information services. Works Cited: Crawford, S. P. (2014). *Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age*. New Haven, CT: Yale University Press. Mosco, V. (2009). *The Political Economy of Communication*. Thousand Oaks, CA: Sage. Schiller, D. (1998). Social movements in telecommunications: rethinking the public service history of U.S. telecommunications, 1894-1919. *Telecommunications Policy*, 22, 398-408. Schiller, H. (1996). *Information Inequality: The Deepening Social Crisis in America*. New York: Routledge.

Id: 11650

Title: Searching for human rights and the public interest in copyright law

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Abstract: How does copyright law accommodate freedom of expression? In this paper, we address this question, and raise further questions about the impact of evolving copyright-related business models on this fundamental right. This inquiry is necessary because of the diverse pressures on established copyright law (leading to, for instance, new approaches to enforcement, or the recasting of exceptions), and the increased significance of merely using a work (accessing, reading, etc) as an act governed by intellectual property. Doctrinally, it is only in recent years that significant attention has been paid by scholars of each field to the other; efforts at intergovernmental level have been, to date, inconclusive. We set out proposals for how human rights law could be given greater effect and status in the field of copyright. We test three propositions: (a) copyright law provides adequate protection; (b) a specific 'speech exception' is necessary); (c) copyright law can be re-read in a way that acknowledges fundamental rights. We also outline why an 'impact assessment tool' could also promote freedom of expression within the copyright system, through allowing affected parties outside academic legal studies to assess the adequacy of proposed measures or business models.

Id: 11715

Title: Democratic Global Media Governance: Benevolent Hegemony'

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Abstract: As Volkmer has argued, we should not extrapolate future media governance from the past. The nation-states organized their often artificially separated public spheres and mass media in ways that cannot be expected to continue unchanged for much longer, due especially to the meanwhile globalized circumstances of the public sphere(s), and of media markets, networks, technologies, and uses. This will be a speculative, philosophical paper, in which global democratic governance will be conceived as all-inclusive and not extrapolated from nation-state or local government, which are both, at best, forms of democracy that exclude non-citizens and/or non-residents. Similarly, global governance will not be in great need of state secrets, since it will lack foreign and defense ministries. 'Government', 'state' and even 'democracy' may turn out to be unsuitable terms for global policy and politics. Yet state-like secrets will no doubt persist if a legal system should emerge on the global level. The need for freedom of information or transparency cannot realistically trump the need for at least partly secret criminal investigations or the need to avoid so-called 'trial by media'. It is important to steer clear of naïve utopianism while practicing speculative cosmopolitanism. Also, the reports of the early death of pre-global media may have been vastly exaggerated (Hafez). Still, there are concrete advantages involving justice, fairness and efficiency that become abundantly clear when considering media governance on a planetary scale, for example net neutrality, 'libel tourism', or a world competition (antitrust) authority for the media, as suggested already by Giddens and Hutton. Maximized relative freedoms of expression and information could also work best in a global legal system. The methodologies utilized for this paper will be cosmopolitanism and perspectivism. Bertalanffy, L. (1968). General system theory: Foundations, development, applications. London: Braziller. Flyverbom, M. (2011). The power of networks: Organizing the global politics of the Internet. Cheltenham: Edward Elgar, 2011. Giddens, A., & Hutton, W. (2000). 'Fighting back'. In Hutton, W. & Giddens, A. (Eds.), On the edge: Living with global capitalism (pp.213-223). London: Jonathan Cape. Hafez, K. (2007). The myth of media globalization, Cambridge: Polity Press. Hamelink, C.J. (2014). Global communication, London: Sage. Held, D. (2010). Cosmopolitanism: Ideals and realities, Cambridge: Polity Press. Löwstedt, A. & Al-Wahid, S. (2013). Cultural diversity and the global regulation of new media technologies. International Journal of Media and Cultural Politics, 9(2), 195-200. Mansell, R. & Raboy M. (Eds.) (2011). The handbook of global media and communication policy, Global handbooks in media and communication research, Chichester: Wiley Blackwell. Volkmer, I. (2014). The global public sphere: Public communication in the age of reflective interdependence, Cambridge: Polity Press.

Id: 11741

Title: REFORM ON TELECOMMUNICATIONS IN MEXICO. ALTERNATIVES TO THE ACCESS OF COMMUNICATION

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Abstract: Mexican Constitution was amended on telecommunications in 2013, including new human rights such as the right of access to information and communication technologies, as well as broadcasting and telecommunication services, including broadband and internet access (communication rights). Nevertheless, millions of Mexicans are still in the digital gap and companies owned by Mexican billionaire Carlos Slim, one of the richest men of the world, have dominated Mexican telecommunication market. That is why the main purpose of constitutional amendments is to break telecommunication monopolies. However, questions arise regarding the real intention of constitutional amendments in benefit of the main broadcasting company that is linked with the current Mexican President. As Giovanni Sartori coined the concept videopolitics, we can say this idea is a theoretical approach of links between the political powers with economic power, in this case television, which uses the media convergence as a flag to capture Slim's clients in telecommunication market. Not only are the market issues seen as a problem, but also the social issues. Consequently, constitutional amendments also set a shift of paradigm in licensing. Now, concessions may be for commercial, public, private use and include social and indigenous communities. The social concession model is an important step to many Mexicans for reaching the digital world. In the past, companies did not provide telecommunication services due to lack of interest to deploy infrastructure in remote locations, such as indigenous communities that lack of coverage. This work investigates the Mexican concentrated markets on telecommunications and broadcasting, as this has been called "The war on telecommunications", and besides that, how a legal change and opportunity can create democratization on media, as well as rural connectivity through viable alternatives to traditional models. This work also analyzes opportunities and barriers within existing telecommunications amendments relating to social concessions. Finally we offer policy recommendations to strengthen and legitimize these networks.