

Freedom of Expression International Contexts



Objectives

- To help human rights and ICT professionals, and others with an interest in the issues, to:
 - Understand ways in which the internet is affecting the enjoyment and protection of rights – now and in the future.
 - Explore how these affect their work.
 - Make more effective use of the opportunities provided by the internet and address the challenges that are posed by it.

Key Questions

- What is the meaning of freedom of expression and freedom of information?
- What limits are placed upon these within the international rights regime and how do they relate to other rights?
- What has been the impact of the internet on opportunities to exercise freedom of expression and information?
- What has been the impact of the internet on the relationship between these and other rights, including privacy?
- What has been the impact of the internet on limitations to and violations of these rights?
- How should rights professionals respond to the implications of the internet for their work in these areas?

Freedom of Expression

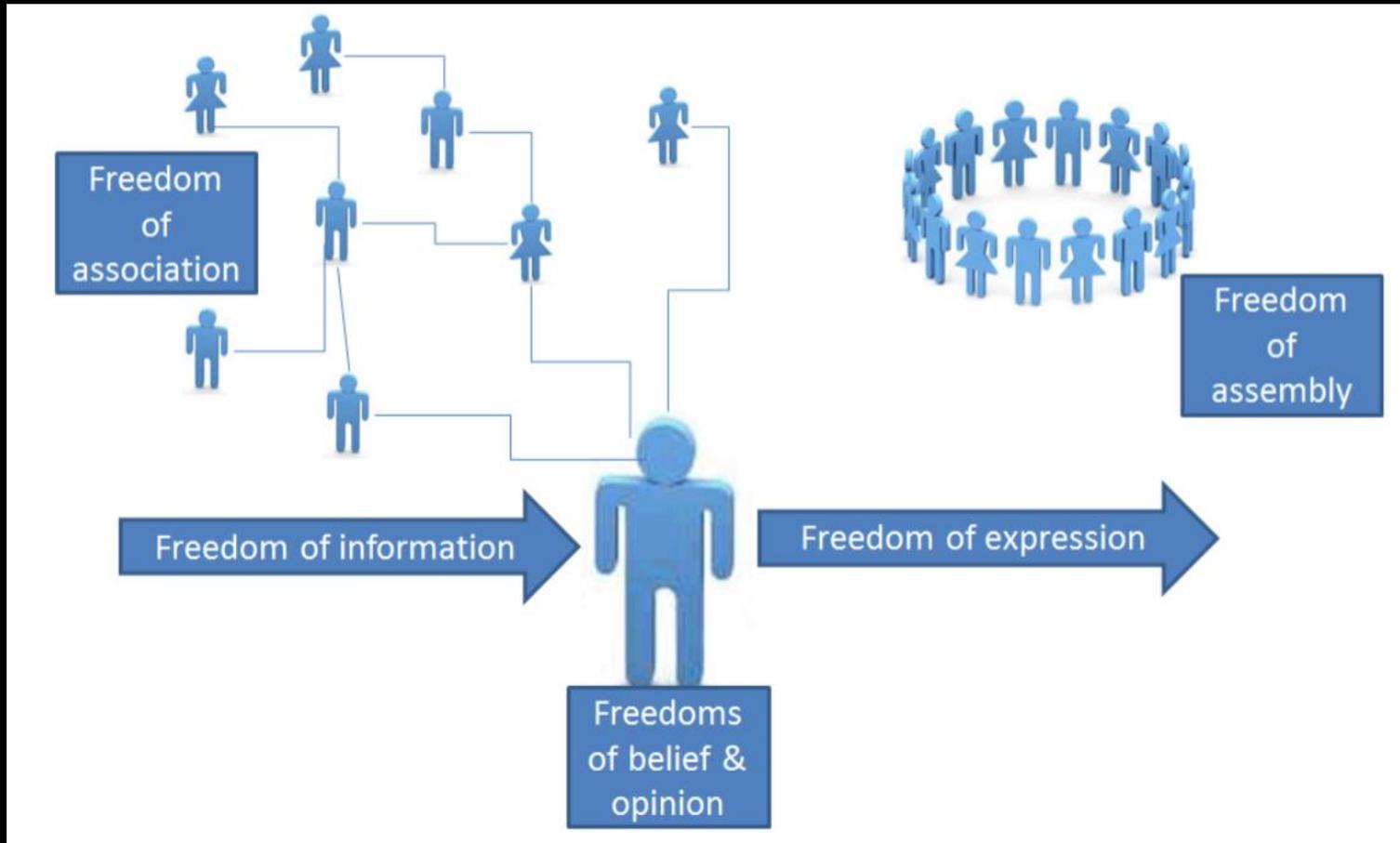
- *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

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Article 19 rights in relation to other rights

- Freedom of belief (“thought, conscience and religion”), including the right to manifest belief (e.g. through worship and teaching) (Article 18 of the UDHR and ICCPR)
- **Freedom of opinion** (Article 19 of UDHR, 19(1) of ICCPR)
- **Freedom of expression** (Article 19 of UDHR, 19(1) of ICCPR)
- **Freedom of information** (implicit in Article 19 of UDHR, 19(1) of ICCPR)
- Freedom of association (Article 20 of UDHR, 22 of ICCPR)
- Freedom of assembly (Article 20 of UDHR, 21 of ICCPR)
- Freedom to participate in political and public life, including democratic elections (Article 21 of UDHR, 25 of ICCPR)
- Freedom to participate in cultural life and to use one’s own language (Article 27 of UDHR, Article 27 and elsewhere in ICCPR)

Article 19 rights in relation to other rights



Freedom of expression/opinion is often seen as an enabling right where other rights are concerned.

Limitations to Article 19

- *Carries with it special duties and responsibilities*
- Only be provided by law and are necessary for:
 - *For respect of the rights or reputations of others;*
 - *For the protection of national security or of public order (ordre public), or of public health or morals.*
- Article 20 of the ICCPR prohibits “propaganda for war” and “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”. Incitement to genocide and terrorism are also prohibited in international law.

Limitation to Article 19

- The ICCPR also confers rights which can conflict with freedom of expression, particularly:
 - Life, liberty and security
 - Right to fair trial
 - Rights to privacy, honour and reputation – Authorial rights.
- The CRC prohibits “the exploitative use of children in pornographic performances and materials.”

Impact of the Internet on FoE

- The internet has:
 - greatly extended the range of opportunities for
 - accessing content,
 - including content which is digitally available from any source worldwide, usually at no or virtually no cost.
- Websites and file downloads have made the internet “the world’s library”.

Implications of increased opportunities for Article 19

- Increased plurality of information and expression
- Globality of expression
- Globality of available content
- Problems of validation of content
- Ease of publication of content which potentially violates other rights (e.g. privacy, honour and reputation)
- Anonymity and pseudonymity

Issues

- The internet provides opportunities for greater inclusiveness of political debate.
- Some governments wish to:
 - suppress expression
 - suppress access to content
 - monitor expression and access to content.
- What are the implications for law and rights?
- What are the implications for internet businesses (ISPs, OSPs)?

Controls on Article 19

- Various mechanisms have been used by governments either to enforce limitations within the rights regime or to impose political or moral censorship.
- Issues include:
 - Closure of the internet
 - Website blocking
 - Website filtering
 - Intermediary liability and self-regulation
 - Surveillance

- The internet has significantly enhanced the ability of people to exercise freedom of expression.
- This has raised new challenges of interpretation concerning the limitations to expression in the rights regime, and concerning balances between rights.
- Some governments have sought to impose limits on content or to suppress expression using a variety of mechanisms.