

Media Globalisation: Consequences for the Rights of Children

Cees J. Hamelink

One of the most revolutionary developments of the 20th century has been the establishment of an international human rights regime. The core element of this regime is that fundamental rights and freedoms are considered universally valid for everyone. In short, the human rights regime that emerged after the Second World War represents the moral standard that “all people matter”. This inclusive conception of human rights is a novelty in the history of international law, since until 1945 there were always social groups excluded from the protection of the dignity and worth of the human person.

However significant this change was, for some time in the early stages of the new regime there remained a category that was not included in “all people”: children. This changed on 20 November 1989, when the United Nations Assembly (in its resolution 44/25) unanimously adopted the Convention on the Rights of the Child. With this convention also children became in their own right subjects of international law! Article 2 of the Convention recognizes that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind...”.

The Convention concluded a process which begun with the preparations for the International Year of the Child in 1979. Although there had been declarations on the rights of child by the League of Nations in 1924 and by the United Nations in 1959, it was felt by some Member States that these rights should be brought under the authority of binding international law. It is important to observe that the Convention is today ratified by 191 of the 193 member states of the United Nations.¹ The four basic principles of the Convention are non-discrimination; the best interests of the child; the right to life, survival and development; and the views of the child.

The latter principle is evidently essential to the field of information and communication as it expresses the notion that children have the basic right to be listened to and to have their views taken seriously. In line with this principle, the Convention has the following important provisions in the field of information and communication:

- Article 12.1. “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child...”
- Article 13.1. “The child 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 the child’s choice.”
- Article 14.1. “States Parties shall respect the right of the child to freedom of thought...”
- Article 16.1. “No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.”
- Article 16.2. “The child has the right to protection of the law against such interference or attacks.”
- Article 17. “States parties recognize the important function performed by the mass media and shall ensure that he child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his of her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:
 - (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
 - (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
 - (c) Encourage the production and dissemination of children’s books;
 - (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
 - (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.”
- Article 29.1. “States parties agree that the education of the child shall be directed to:
 - (a) The development of the child’s personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the

country in which the child is living, the country from which he or she may originate and for civilizations from his or her own;

- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous groups.”

Implementation

As with all human rights, the key issue regarding children's rights is obviously their implementation. This continues to represent the weakest element in the international human rights regime. As with all human rights conventions, also for the Convention on the Rights of the Child, the institutions and procedures for serious enforcement are largely ineffective.

In 1991, States parties to the Convention elected for the first time the monitoring body for the Convention: the Committee on the Rights of the Child. The Committee, which consists of ten experts, meets three times a year to examine the implementation reports that are submitted by States parties that have accepted the duty (Article 44 of the Convention) to regularly report about the steps they take to implement the Convention. However important the work of the Committee is, its power to enforce the standards of the Convention is severely limited. Moreover, the Convention does not provide for individual complaints about violations from children or their representatives.

When children's information rights – in so far they are pertinent to a discussion of consequences of media globalisation – are summarized, the following programme of action emerges:

The mass media should disseminate information and material of social and cultural benefit to the child. This implies that the mass media should have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous; that the mass media should develop respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; and that the mass media should prepare the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous groups.

Although this chapter focuses on the above-mentioned provisions, this does not mean that the Convention's legal entitlements to the protection of privacy and free speech are less important. Actually, they are particularly relevant and challenging in a time of increasing concern about the contents of such advanced media as the Internet. However understandable such concerns are, they tend to be debated and acted upon without serious consideration of the child's right to freely seek and receive information and the right to respect for his or her privacy.

In the case of the information-related rights of children, implementation is especially hampered by the currently prevailing process of media globalisation.

Globalisation and its political agendas

There is something odd in the way in which the international mass media report about the recent outburst of civil society demonstrations at conferences of the WTO (World Trade Organization), the IMF (International Monetary Fund), or the EU (European Union). The protesters are often referred to as the anti-globalisation movement. As the *International Herald Tribune* reports on March 16, 2001, "Anti-Globalization Forces Gain Steam". Yet, the some 50,000 people who demonstrated in the streets of Seattle (late 1999) formed a global, cosmopolitan community, that came together through global communications on the global Internet and that was clearly motivated by sentiments of global solidarity. It may therefore be more adequate to refer to their protest as a denunciation of a specific type of globalisation: the neo-liberal globalisation-from-above that is market-centred. In fact the movement proposes a different humanitarian form of globalisation-from-below that is people-centred. This humanitarian agenda is primarily interested in the needs of citizens worldwide, wants the regulation of capital flows (through such tools as the so-called Tobin tax), the protection of labour (especially child labour) and the environment, and prefers the protection of basic human rights to trading interests.

Those who promote the neo-liberal agenda of globalisation, on the other hand, want the liberalisation of national markets around the world, the deregulation of capital flows, the lifting of environmental restrictions that hamper the freedom of operation of transnational corporations and the recognition of the rights of investors.

These agendas also affect the media globalisation process and shape conflicting perspectives on the world communication arena.

Dimensions of media globalisation

Although the process of media globalisation is complex and broad it can be reduced to three essential dimensions – the global spread of multimedia conglomerates, the spread of the Billboard Society, and the global regime for the protection of content.

• The global spread of multimedia conglomerates

First of all, media globalisation refers to the worldwide expansion of media production and distribution companies that trade on the emerging global media market. This expansion is evidently facilitated not only by technological developments but also largely through the pressures on countries to open their domestic markets to foreign suppliers and the concomitant neo-liberal claim that cultural products should not be exempt from trade rules.

The effective operating on the global market is possible only for large-scale, integrated companies: conglomerates that combine several sectors of the media industry. These conglomerates are presently involved in a process of global consolidation, which results in a strong degree of concentration.

Media globalisation is therefore primarily the global proliferation of a small number of media conglomerates. The neo-liberal globalisation agenda that is prevalent in world politics supports consolidation, concentration and conglomeration. This commercial agenda has a strong interest in creating business links (acquisitions, mergers, joint ventures) with partners in order to consolidate controlling positions on the world market, and wants to create a sufficiently large regulatory vacuum in order to act freely.

In an economic environment where mega mergers are almost natural and are loudly acclaimed by financiers and industrialists, the tendency towards public control is likely to be minimal.

- **The spread of the Billboard Society**

Secondly, the primary messages of the global conglomerates are of a commercial nature; they are the key vehicles in creating a Billboard Society in which people worldwide are better informed about consumer goods and where to fun-shop than about the environmental consequences of the global rate of consumption. As a result media globalisation is to a large degree the worldwide proliferation of messages that propagate global consumerism.

Worldwide advertising has become ubiquitous. In many countries there are hardly any advertising-free zones left. In spite of all political declarations on the Knowledge Society it seems more realistic to expect a global Billboard Society!

Whatever its local variation, advertising proclaims to the world a single cultural standard for its audiences: consumption fulfils people's basic aspirations; fun shopping is an essential cultural activity. It subjects the world's cultural differences to the dominance of a consumption-oriented life-style. People's fundamental cultural identity is to be a consumer. Advertising teaches children around the world the values of materialism and the practices of consumerism. The neo-liberal commercial agenda has strong interest in the expansion of global advertising. This implies, among other things, more commercial space in media (mass media and Internet), new target groups (especially children), more sponsorships (films, orchestras, exhibitions) and more places to advertise (the ubiquitous Billboards).

- **The global regime for the protection of content**

Thirdly, the core business of the media conglomerates is content; and several of the recent mergers are motivated by the desire to gain control over rights to contents such as are, for example, invested in film libraries or in collections of musical recordings. Recent developments in digital technology which open up unprecedented possibilities for free and easy access to and utilization of knowledge, have also rendered the professional production, reproduction and distribution of content vulnerable to grand scale piracy, and made the contents owners very concerned about their property rights, as well as interested in the creation of a global enforceable legal regime for their protection. Media globalisation represents the worldwide protection of proprietary content through the imposition of a global system of intellectual property rights (IPR) protection.

With the increasing economic significance of intellectual property, the global system of governance in this domain has moved away from moral and public interest dimensions and emphasizes in its actual practice mainly the economic interests of the owners of intellectual property. Today, such owners are by and large no longer individual authors and composers who create cultural products, but transnational corporate cultural producers. The individual authors, composers, and performers are low on the list of trade figures and as a result there is a trend towards IPR arrangements that favour institutional investment interests over individual producers.

The recent tendency to include intellectual property rights in global trade negotiations demonstrates the commercial thrust of the major actors. Copyright problems have become trade issues and the protection of the author has conceded place to the interests of traders and investors. This emphasis on corporate ownership interests implies a threat to the common good utilization of intellectual property and seriously upsets the balance between the private ownership claims of the producer and the claims to public benefits of the users. The balance between the interests of producers and users has always been under threat in the development of the IPR governance system, but it would seem that the currently emerging arrangements provide benefits neither to the individual creators, nor to the public at large.

Consequences for children's rights

Since there is at present only limited empirical evidence for a discussion on the consequences of media globalisation the following brief notes are intended to suggest which consequences for children's information rights the author thinks are probable on the basis of current global processes.

- **What are the consequences of market control by media conglomerates for the information rights of children?**

The predominantly commercial control over the world's supply of information by a handful of media conglomerates implies that media contents will tend to be supportive of the socio-economic interests of these mega producers. Commercial imperatives do not likely cater to the linguistic needs of ethnic minorities or indigenous groups. As media become industrial conglomerates they move ever further away from service to the common good to the service to commercial imperatives. The essential mission is to produce material that attracts large audiences, which can be sold to advertisers. This sets limits to the independent creativity of producers to design materials that promote human rights issues.

- **What are the consequences of the global Billboard Society for the information rights of children?**

It is difficult to see how the expanding volumes of commercial messages directed at children contribute to their social and cultural well-being. By and large children

receive more material about life in the shopping mall than about life in a free and responsible society. To teach them the “pester power” they can use to get their parents to buy consumer goods for them, is a very different process indeed from teaching them tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous groups

- **What are the consequences of the emerging IPR (intellectual property rights) regime for the information rights of children?**

It seems sensible that holders of copyrights want to protect their interests against theft. Even the most active defenders of neo-liberalism (the protagonists for withdrawal of the state) will encourage states to act decisively against the piracy of their properties. Protecting intellectual property is, however, not without risks. The protection of intellectual property also restricts the access to knowledge since it defines knowledge as private property and tends to facilitate monopolistic practices. The granting of monopoly control over inventions may restrict their social utilization and reduce the potential public benefits. The principle of exclusive control over the exploitation of works someone has created can constitute an effective right to monopoly control, which restricts the free flow of ideas and knowledge.

Following the above argument the conclusion is that media globalisation is likely to hamper the production and dissemination of the kind of information and material for children that the Convention aspires towards.

A culture of empowerment

In addition to these consequences it should be noted that basic to the implementation and protection of human rights is the presence of a human rights culture. This is an environment of empowerment in which human beings – both adults and children – can be “beings for themselves”. In terms of information this means space to express themselves, to be left to themselves, to decide what information they need, to control what they want others to know about their personal lives, to speak their own language, and to be respected in their cultural identity. This is equally important for grown-ups and for minors and maybe even more crucial for the latter as there is in most cultures a strong tendency to patronize them, to silence them, to invade their privacies arbitrarily, and to spend more energy on filtering messages for them rather than on producing materials specifically suited for them.

Implementation is urgent in the light of the current globalisation process of the media. In the broad sense this process contributes to a culture of disempowerment in which human beings are “beings for others”. Media globalisation limits people’s free space for expression and thought, violates their privacy through data mining and related data collection techniques, and undermines their citizenship by perceiving them primarily as consumers.

The author's outline of a humanitarian agenda towards the implementation of children's information rights suggests the following

- **on media conglomerates:**

A humanitarian agenda proposes that there be effective measures to curb the present growth of media conglomerates. If knowledge indeed considered an essential public good, then "good governance" would require more public control (nationally and globally) over the conclusion of corporate "mega-deals". Strict rules should be applied to limit market control by conglomerates; in cases of possibly conflicting interests between independent knowledge production and conglomerate political or economic interests, divestiture of parts of the conglomerate should be governed by robust legislation.

Content producers should be well protected against possible intervention from owners or commercial management through such instruments as editorial statutes.

Using public funding, societies have provided substantial support for the development of a large diversity and plurality of knowledge producers and providers.

- **on advertising:**

A humanitarian agenda proposes to reclaim public space from commercial communications. It recommends that in all countries ad-free zones are created in local communities, in the media, and in public spaces. It suggests that the law adopted by the Swedish Parliament, which prohibits TV advertising that is directed at children, should be implemented worldwide.

It proposes that editorial policies in news media are effectively protected against "deals" between media owners and advertisers.

This agenda wants that current funds expended on the commercial efforts to teach children how to become global consumers are matched by public funding to teach them how to become world citizens.

- **on intellectual property rights:**

A humanitarian agenda has a strong interest in defending public spaces against their commercial exploitation and wants retain the public property of the human common heritage, so that public accountability and community requirements remain secured. This agenda implies that societies respect the non-commercial dimensions of copyright. Knowledge is seen as part of the common heritage of humankind and cannot be the exclusive property of a few members of the community.

A humanitarian agenda conceives of knowledge as an essential human resource and wants for its development and application to establish a proper balance between the ownership interests of knowledge-producers and the public good interests of knowledge-users.

This agenda proposes that property rights should be balanced against obligations of rights holders, for example through rules on liability. A right to know-

ledge implies that claims to ownership of immaterial products should be acknowledged and respected. These claims provide a right to control and exploit knowledge as property. The law of property commonly recognizes these claims as absolute; they are valid vis-à-vis all other legal subjects. A proper balance recognizes the claim to protection of products of the mind and as such provides incentives, rewards and recognition for individual producers of knowledge. However, it also demands that the control of knowledge is restricted by rules and norms adopted by the community in which ownership is practised. The liberty of ownership does not imply the right to damage others. Owners abuse their rights in case the disadvantage they cause to others (by withholding knowledge) is greater than the benefits that may accrue to them (by not working a patent, for example). Property rights should be restricted in the sense that their use may not damage someone else's property rights. This happens whenever intellectual property protection has monopolistic effects. Property implies liability for its use and a proper balance implies that the governance of intellectual property rights includes both property rules and liability rules.

A humanitarian agenda wants that the scope of "works in the public domain" should be extended and that present efforts to bring such works under copyright protection should be discouraged. It also proposes that as the corporate copyright holders extensively profit from the use of materials from the public domain, they should be taxed for this. Tax revenues could be used to promote the creation of artistic expression and scientific knowledge.

Concluding note

There is a need to mobilize all those who are concerned about an effective enforcement of children's rights. This is a monumental and essential task if we want a unique development in human history – the global recognition of children's rights – not to lose its momentum and whither away.

Note

1. United States and Somalia have not yet ratified the Convention. They have, however, signalled their intention to do so by formally signing the Convention.

