

# THE HUMAN RIGHTS FACE OF INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) IN MEXICO: HOW FAIR IS THE REALITY?

Gabriela Barrios Garrido

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## Résumé de l'article

Des facteurs socio-économiques à caractère historique, accompagnés d'un système judiciaire inefficace, ainsi que le manque d'autonomie des institutions publiques qui défendent les droits de la personne sont quelques-uns des problèmes qui anéantissent la *Déclaration des principes* et le *Plan d'action* du SMSI. Formellement, le Mexique est un joueur important au niveau mondial en ce qui a trait aux droits de la personne, surtout par rapport aux instruments qui visent à promouvoir l'égalité, la dignité, le respect et la protection des droits de la personne ainsi que l'État de droit. Pour l'instant, la distance entre les énoncés et objectifs du gouvernement et la réalité observable reste considérable. En décembre 2003, le Haut Commissariat des Nations unies pour les droits de la personne a présenté au gouvernement mexicain une analyse de la situation actuelle dans le but de lui donner quelques points de repère quant à ses politiques dans le domaine des droits de la personne, y compris des recommandations ayant trait au système judiciaire et aux technologies de l'information et de communication (TIC). La fracture numérique va de pair avec le phénomène de la pauvreté dans lequel les individus font face à des conditions de vulnérabilité, d'insécurité et de discrimination sans avoir la possibilité d'exercer leurs droits politiques et civiques. Les possibilités liées aux instruments des technologies de l'information et de communication sont toujours entre les mains de quelques privilégiés dont le seul intérêt est le profit. Le renforcement des capacités et l'alphabétisation électronique demeurent pertinents. Les différences entre les programmes gouvernementaux pour contrer la fracture numérique et les résultats obtenus grâce aux indicateurs d'accès aux TIC sont claires. L'objectif le plus ambitieux, soit celui d'intégrer les citoyens aux nouvelles technologies de l'information et de communication, a besoin d'être reconsidéré, sinon il continuera à être voué à l'échec. Un cadre juridique de protection de l'information pour le secteur privé est encore en voie de développement. Une analyse de la situation des technologies de l'information a été proposée par quelques universités ainsi que le Sénat à la rencontre du SMSI en 2005 en Tunisie. Pour l'instant, les actions se résument à une forme de marketing politique, sans qu'il ne semble y avoir de véritable engagement du gouvernement dans le but de mettre en application la *Déclaration des principes* et le *Plan d'action* du SMSI.

## THE HUMAN RIGHTS FACE OF INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) IN MEXICO: HOW FAIR IS THE REALITY?

*By Gabriela Barrios Garrido\**

Historical socio-economic factors together with an inefficient judicial system, non-autonomous, non-accountable public human rights institutions are some of the problems nullifying the WSIS *Declaration of Principles* and *Plan of Action*. Formally, contemporary Mexico is a global human rights player with respect to human rights instruments promoting equality, dignity, respect and protection of human rights and the rule of law, but the gap between reality and the so called goals and statements of the government remains significant. In December, 2003, the Office of United Nations High Commissioner for Human Rights presented the Mexican government with an analysis of the human rights situation in Mexico to serve as a road map for government policy on human rights issues, as well as issues concerning the judiciary and information and communication technologies (ICT). The digital gap goes hand in hand with the phenomenon of poverty in which individuals live in conditions of vulnerability, insecurity, discrimination, with no possibility of exercising their civil and political rights. The opportunities provided by ICT tools are still in the hands of the privileged whose main interest is financial gain. Capacity building and ICT literacy are pertinent. The discrepancy between the governmental programs to bridge the digital divide and the results in indicators for accessing ICTs is clear. The government's most ambitious project, which aims to connect citizens to the information society, needs to be re-thought, or it will continue to fail. A legal data protection framework for the private sector is still in being developed. Some universities and the Senate have done analyses of ICTs in relation to the Tunisia 2005 WSIS meeting, but there seems to be only political marketing and no effective governmental interest in implementing the WSIS *Declaration of Principles* and the *Plan of Action*.

Des facteurs socio-économiques à caractère historique, accompagnés d'un système judiciaire inefficace, ainsi que le manque d'autonomie des institutions publiques qui défendent les droits de la personne sont quelques-uns des problèmes qui anéantissent la *Déclaration des principes* et le *Plan d'action* du SMSI. Formellement, le Mexique est un joueur important au niveau mondial en ce qui a trait aux droits de la personne, surtout par rapport aux instruments qui visent à promouvoir l'égalité, la dignité, le respect et la protection des droits de la personne ainsi que l'État de droit. Pour l'instant, la distance entre les énoncés et objectifs du gouvernement et la réalité observable reste considérable. En décembre 2003, le Haut Commissariat des Nations unies pour les droits de la personne a présenté au gouvernement mexicain une analyse de la situation actuelle dans le but de lui donner quelques points de repère quant à ses politiques dans le domaine des droits de la personne, y compris des recommandations ayant trait au système judiciaire et aux technologies de l'information et de communication (TIC). La fracture numérique va de pair avec le phénomène de la pauvreté dans lequel les individus font face à des conditions de vulnérabilité, d'insécurité et de discrimination sans avoir la possibilité d'exercer leurs droits politiques et civiques. Les possibilités liées aux instruments des technologies de l'information et de communication sont toujours entre les mains de quelques privilégiés dont le seul intérêt est le profit. Le renforcement des capacités et l'alphabetisation électronique demeurent pertinents. Les différences entre les programmes gouvernementaux pour contrer la fracture numérique et les résultats obtenus grâce aux indicateurs d'accès aux TIC sont claires. L'objectif le plus ambitieux, soit celui d'intégrer les citoyens aux nouvelles technologies de l'information et de communication, a besoin d'être reconsidéré, sinon il continuera à être voué à l'échec. Un cadre juridique de protection de l'information pour le secteur privé est encore en voie de développement. Une analyse de la situation des technologies de l'information a été proposée par quelques universités ainsi que le Sénat à la rencontre du SMSI en 2005 en Tunisie. Pour l'instant, les actions se résument à une forme de marketing politique, sans qu'il ne semble y avoir de véritable engagement du gouvernement dans le but de mettre en application la *Déclaration des principes* et le *Plan d'action* du SMSI.

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\* Gabriela Barrios Garrido is an Information Technology lawyer who works in academia, human rights, and the private sector at the National Autonomous University of Mexico as well as at other major Mexican Universities. She co-authored *Internet and the Law in Mexico* in 1998, and was the Spanish legal technical editor of *Business & Law on the Internet* in 1996. She is a member of the Mexican Bar Association and the *Diario Reforma* Editorial Board.

[...] my old conviction is that this society must and can be more fair and that if it is not or it cannot be, we have to try anyway.<sup>1</sup>

## I. Mexico as Part of the International Human Rights System, and the Role of Information and Communication Technology

Mexico has been a struggling democracy since the 1910-1917 Mexican revolution which, paradoxically, established most of the political institutions that would remain in power for the next seven decades. It had a closed system that was not broken until the year 2000 with the election of an opposition right-wing candidate as president. Four years after the election, the biggest challenges that remain are to set up a rule of law with an efficient, effective and autonomous judiciary, and to foster the creation of a culture of respect for human rights.

The history of this nation cannot be separated from its intention to implement the World Summit on the Information Society (WSIS) *Plan of Action*.<sup>2</sup> The causes of Mexico's historical and socio-economic condition must be analyzed in light of the WSIS *Declaration of Principles*<sup>3</sup> and the challenge it presents of harnessing the potential of information and communication technology (ICT) to promote the development goals of the United Nations *Millennium Declaration*:

[T]he eradication of extreme poverty and hunger; universal primary education; promotion of gender equality and empowerment of women; reduction of child mortality; improvement of maternal health; to combat HIV/AIDS, malaria and other diseases; ensuring environmental sustainability; and development of global partnerships for development for the attainment of a more peaceful, just and prosperous world.<sup>4</sup>

As Michael Dertouzos, founder of the Laboratory for Computer Science at the Massachusetts Institute of Technology, once said, “[w]e made a big mistake when we separated technology and humanism [...] It’s time to put the two back together.”<sup>5</sup>

Mexico ratified *The Universal Declaration of Human Rights*<sup>6</sup> in 1948, and then went on to sign the *Geneva Conventions*,<sup>7</sup> the *International Covenant on*

<sup>1</sup> Nicolás López Calera, *Es Posible un Mundo Justo? Estudios de Filosofía Jurídica Y Política* (Granada: Universidad de Granada, 2003) at 7 [translated by the author]. The original text reads: “mi añeja convicción de que esta sociedad debe y puede ser más justa y de que, si no lo es o no puede serlo, tenemos que intentarlo de todos modos”.

<sup>2</sup> UN, World Summit on the Information Society, 1<sup>st</sup> phase, 12 December 2003, *Plan of Action*, WSIS-03/GENEVA/DOC/5 [*Plan of Action*].

<sup>3</sup> UN, World Summit on the Information Society, 1<sup>st</sup> phase, 12 December 2003, *Declaration of Principles*, WSIS-03/GENEVA/DOC/4 [*Declaration of Principles*].

<sup>4</sup> *Ibid.* at para. 2.

<sup>5</sup> Kristin Leutwyler, “Profile: Michael L. Dertouzos” *Scientific American* 277:1 (July 1997) 28 at 29.

<sup>6</sup> *Universal Declaration of Human Rights*, GA Res. 217(III), UNGAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948).

*Economic, Social and Cultural Rights*,<sup>8</sup> the *International Covenant on Civil and Political Rights*,<sup>9</sup> the *Convention on the Elimination of All Forms of Racial Discrimination*,<sup>10</sup> the *Convention on the Elimination of All Forms of Discrimination Against Women*,<sup>11</sup> the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*,<sup>12</sup> and the *Convention on the Rights of the Child*<sup>13</sup> – ultimately bringing the country in line with the international human rights system. It is also one of 189 members of the International Telecommunication Union. During the 1990s, Mexico signed many human rights documents as a hymn to the highest aspirations of mankind for equality, dignity, respect, and protection of human rights and the rule of law. Sadly, this has not noticeably improved the reality of everyday life for most citizens in the country.

Presently, Mexico is still at the beginning stages of its democratic transition and it, like many other Latin American countries, has undergone repressive periods. Citizens are now seeking justice for past abuses and attempting to correct ongoing problems with the judiciary. The average citizen is still a potential victim of those in power. The legacy of the old totalitarian regime continues in the systematic degradation of social morality, the acceptance of corrupt and repressive government as a norm, and the acceptance of corruption at every level of society. The pervasive corruption of the judicial system by prosecutors, judges, and legislators alike is a very important part of the problem, and it will take a total change of mentality to establish an ethical code and culture of human rights and the rule of law.

While such degradation is still evident today, something new and important has taken shape: the international human rights movement as well as communication among virtual communities through ICT tools that have brought to light many of the previously hidden realities of abuse of power and the impunity and hypocrisy practiced by political parties, government and corporations. Unfortunately, these vices have not yet been eradicated, contrary to what the ubiquitous electronic media led voters to expect with the change of regime.<sup>14</sup>

<sup>7</sup> *Geneva Convention relative to the protection of civilian persons in time of war*, 12 August 1949, 75 U.N.T.S. 287; *Geneva Convention relative to the treatment of prisoners of war*, 12 August 1949, 75 U.N.T.S. 135; *Geneva Convention for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea*, 12 August 1949, 75 U.N.T.S. 85; *Geneva Convention for the amelioration of the wounded and sick in armed forces in the field*, 75 U.N.T.S. 31 (entered into force 21 October 1950).

<sup>8</sup> *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 U.N.T.S. 3 (entered into force 3 January 1976).

<sup>9</sup> *International Covenant on Civil and Political Rights*, 19 December 1966, 999 U.N.T.S. 171, (entered into force 23 March 1976).

<sup>10</sup> *International Convention on the Elimination of All Forms of Racial Discrimination*, 7 March 1966, 660 U.N.T.S. 211 (entered into force 4 January, 1969).

<sup>11</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 U.N.T.S. 13 (entered into force 3 September 1981).

<sup>12</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, 1465 U.N.T.S. 112 (entered into force 26 June, 1987).

<sup>13</sup> *Convention on the Rights of the Child*, 20 November, 1989, 1577 U.N.T.S. 43 (entered into force 2 September 1990).

<sup>14</sup> By “electronic media” I refer only to television and radio since the majority of Mexican voters cannot read newspapers or magazines and very few have access to the Internet.

In December 2003, the Office of United Nations High Commissioner for Human Rights (UNHCHR) presented the Mexican government with an analysis of the human rights situation in Mexico to serve as the basis for a National Human Rights Program. It was an unprecedented study of Mexico's human rights woes – from the serial murders of women along the US border to the continued use of torture by police – and will serve as a roadmap for government policy on human rights issues. The *Diagnosis of the Human Rights Situation in Mexico*<sup>15</sup> was the result of the Technical Cooperation Program between Mexico and the UNHCHR. The analysis highlights 31 recommendations. The recommendation concerning ICTs is number fourteen, under the heading “Other Civil Rights.” Loosely translated, it states that Mexico should create a transparent public and autonomous body to supervise and grant licenses to operate radio and television stations in compliance with the applicable law; to establish equal access to radio for the community and its citizens as part of the fulfillment of a social public service; to develop an autonomous system of public radio and television; and to establish clear federal rules concerning radio and television frequencies.<sup>16</sup>

The Technical Cooperation Program with UNHCHR originated with a request from the Mexican government in August of 1998, supposedly to help solve the country's human rights problems. Events such as the killing of 45 unarmed, indigenous citizens in Acteal, Chiapas, by an unknown, uniformed group in 1997, together with other confirmed abuses presented before the UNHCHR, were catalysts for the establishment of this mechanism of cooperation to protect human rights as defined in the *Universal Declaration of Human Rights*.

The government committed itself to creating policies that defend human rights, to bridging prevailing centuries-old economic inequalities, and to promoting the well-being of indigenous peoples and affording them protection from the abuses of a corrupt judicial system. It has been said that the real reason the government took this step was because it wanted to play a larger role in the international economy in the context of NAFTA, the WTO and the OECD. Even if this were the case, the importance of this step cannot be overlooked. The United Nations now has a very clear role in supporting Mexico in its transition towards a truly democratic country where the government plays a key role in human rights protection. One result was the development by the Ministry of Interior of the National Human Rights Program at the end of 2004.

<sup>15</sup> Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en México, “Diagnóstico Sobre: La Situación de los Derechos Humanos en México” (Mexico City: Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en México, 2003), online: Centro de Información de la ONU para México, Cuba y República Dominicana <[http://www.cinu.org.mx/prensa/especiales/2003/dh\\_2003/diagnosticocompleto.pdf](http://www.cinu.org.mx/prensa/especiales/2003/dh_2003/diagnosticocompleto.pdf)>.

<sup>16</sup> *Ibid.* at para. 14. The original text reads: “Crear un órgano público y autónomo que dictamine la procedencia de las concesiones y permisos para operar estaciones de radio y televisión, mediante un proceso transparente; establecer condiciones de equidad para que las radios comunitarias y ciudadanas accedan a las frecuencias para cumplir con su función social; desarrollar un sistema autónomo de radio y televisión públicas, y establecer dentro de las leyes federales de Competencia Económica y de Telecomunicaciones, un capítulo específico sobre radiodifusoras y señales de televisión”.

In 1990, the federal government created the first public human rights institution in Mexico, the Comisión Nacional de los Derechos Humanos (CNDH),<sup>17</sup> but its credibility has been compromised because the ombudsman nomination process has been linked to political interests. Moreover, its Human Rights Research Center does not mention ICTs or either of the WSIS texts.

## II. The Human Rights Culture and Social Reality: Who Has Access to ICTs?

Although the Mexican government is constitutionally based on concepts of democracy and the rule of law, the reality is far from the government propaganda to this effect relayed by the media. There are documented incidents of torture, journalists killed for their ideas, routine police abuse, and other misuses of power. There is still widespread unemployment, malnutrition (especially among indigenous and poor children), and budget cuts in areas such as scientific research, government-supported education, credit for micro industries, support for cultural programs – the list goes on. Removing age-old structural obstacles, including gender inequality, must be a priority and much work must be done if we want the WSIS *Declaration of Principles* and *Plan of Action* to be effective.

The socio-political scenario in Mexico over the last decade has been impacted by the growing influence of the human rights and democracy movement, along with the development of technology, the privatization of telecommunication infrastructure and services and globalization.

In conformity with Article 19 of the *Universal Declaration of Human Rights*, the WSIS *Declaration of Principles* states that:

[E]veryone has the right to freedom of opinion and expression; that this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Communication is a fundamental social process, a basic human need and the foundation of all social organization. It is central to the Information Society. Everyone, everywhere should have the opportunity to participate and no one should be excluded from the benefits the Information Society offers.<sup>18</sup>

According to the *Information Society Index*, which ranks countries based on the development of ICTs, Mexico is number 43 out of 55 countries considered in the study.<sup>19</sup> Only about 18 percent of the population has access to a telephone line and even fewer to a computer, with only 3 to 5 percent having access to the Internet. There is much broader access to television and radio, but the programs generally do not deal with social interest issues. At the conference on Medios de Comunicación,

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<sup>17</sup> Comisión Nacional de los Derechos Humanos (CNDH), online: CNDH <[www.cndh.org.mx](http://www.cndh.org.mx)>.

<sup>18</sup> *Supra* note 3 at para. 4.

<sup>19</sup> Sergio Aguayo Quezada, ed., *El Almanaque Mexicano* (Mexico City: Hechos Confiables, 2000) at 223.

Guerra, Terrorismo y Violencia held at the Universidad Iberoamericana on May 5, 2003, Carlos Monsivais said, in response to a question asked by a young student about freedom of speech: "Mexico has nowadays total freedom of speech; the problem is that media content says nothing. There is total freedom of accusations, but not freedom of ideas."<sup>20</sup>

ICT tools are still in privileged hands and the accumulation of power in the electronic media industry is concentrated in a small group of owners whose only interest is financial gain. The WSIS *Declaration* states in section 45: "The radio frequency spectrum should be managed in the public interest and in accordance with principles of legality, with full observance of national laws and regulation as well as relevant international agreements."<sup>21</sup> This is simply ignored due to the close relationship between the media and the government. The result is an unchecked monopolization of power.

A very obvious yet unanswered question remains: how can ICTs be used as an effective tool to awaken people to their own rights if the reality is that the content of electronic media is produced by monopolies that are focused on their own economic interests and that have the power to control information?

The potential progress that ICTs promise mean nothing to more than half the country that does not and will not have access to ICTs if radical changes are not made. This digital gap goes hand in hand with the phenomenon of poverty, where individuals live in conditions of vulnerability, insecurity, and discrimination, with no possibility of exercising their civil and political rights.

One notable accomplishment of ICTs has been the evolution and growth of civil consciousness through citizen associations as well as non-governmental organizations (NGOs) that use it as an information and communication tool. These groups have asked the government to develop domestic democratic policies and a legal and regulatory framework to ensure ICTs are used as a tool for social development.<sup>22</sup>

There are, however, indications that some strong local NGOs have fallen victim to authoritarian and self-interested leaders, or serve government interests rather than those of the organizations who need help.<sup>23</sup>

<sup>20</sup> I am quoting as well as translating directly from what I myself heard him say at this conference, since his comments were not published. In Mexico as in many other developing countries, journalists must be careful about what they report because their lives may be jeopardized on account of their reporting (see "Mexico – Annual Report 2004," online: Reporters Without Borders <[http://www.rsf.org/article.php3?id\\_article=9979&Valider=OK](http://www.rsf.org/article.php3?id_article=9979&Valider=OK)>).

<sup>21</sup> *Supra* note 3.

<sup>22</sup> Asociación para el Progreso de las Comunicaciones (APC) y la Campaña Derechos a la Comunicación en la Sociedad de la Información (CRIS), *Involucrando a la Sociedad Civil en Políticas de TIC: La Cumbre Mundial sobre la Sociedad de la Información* (Johannesburg, South Africa: STE Publishers, 2003) at 53.

<sup>23</sup> Ursula del Carmen Zurita Rivera, *ONG y Estado: Las relaciones entre las ONG de derechos humanos y el Estado Mexicano en el marco de la transformación democrática en los 1990's* (D. Political Science Thesis, Universidad Nacional Autónoma de México, 2003) at 8 [unpublished].

Real-time handling of incidents and response to the work of NGOs make the Internet an invaluable tool for reporting human rights violations that need quick action.<sup>24</sup> Immediate global communication means that interested groups can react instantly to any incident. If the Internet had been available forty years ago to report the killing of students, journalists, and citizens in the 1968 protest, the world would have known what was happening in Mexico before the Olympic Games.<sup>25</sup>

The following three examples from Amnesty International reports of the last year show us the social reality in a country suffering serious violations of human rights. The examples also illuminate the challenge of changing a culture based on a system of conformity, rather than on respect for individual fundamental rights, and on the false comfort of myths such as the happy Mexican family, democratic revolution, and national sovereignty and independence. Instead of taking charge of and changing their situations, individuals turn to the Virgin of Guadalupe for "protection."

a) Indigenous communities in southern Mexico are some of the most marginalized and discriminated against in the country. Abuses of power, arbitrary policing and judicial processes are common, leaving the most vulnerable exposed to human rights violations with virtually no chance of redress. The state authorities often fail to investigate abuses at the municipal level, leaving abuses of power and human rights violations unchecked, encouraging local authorities to act with impunity, restricting justice to only those with most influence. Frequently living in isolated communities, those who report abuses and seek redress are particularly exposed to threats, intimidation and attack.<sup>26</sup>

In many isolated areas of Mexico, there are no means of communication other than limited access to local community or commercial radio, much less telephone or Internet service. Although the 1960 *Federal Radio and Television Law* states that the exploitation of radio services should serve the public interest,<sup>27</sup> and despite almost thirty years of unsuccessful lobbying by diverse social groups, the permissions to operate a community radio station for public use are still given on a discretionary basis by the federal government. Furthermore, the tendency seems to be to eliminate the very few that do exist by refusing to renew their permits. The few left that continue to benefit isolated or marginalized communities were usually established in response to some natural disaster or other urgent need for communication.

<sup>24</sup> Edward F. Halpin, Steven Hick & Eric Hoskins, "Introduction" in Edward F. Halpin, Steven Hick & Eric Hoskins, eds., *Human rights and the Internet* (New York: St. Martin's Press, 2000) at 7.

<sup>25</sup> On October 2<sup>nd</sup> 1968, hundreds of students who protested against the authoritarian government were imprisoned, killed, or disappeared. They were accused of communist conspiracy and disturbing the peace. This day was also the turning point in modern Mexican history, and was the starting point of civil society awareness and organization. The 1968 Olympic Games continued as if nothing had happened, and the local media portrayed Mexico as a colorful land of peace and tradition.

<sup>26</sup> Amnesty International, "Mexico: Fear for safety/threats," AI Index: AMR 41/020/2004, online: Amnesty International <<http://web.amnesty.org/library/Index/ENGAMR410202004?open&of=ENG-MEX>>.

<sup>27</sup> *Ley Federal de Radio y Televisión*, Diario Oficial de la Federación el 4 de agosto de 1994, (entered into force on 1 June 1995), online: Instituto de Investigaciones Jurídicas <<http://info4.juridicas.unam.mx/ijure/ctfed/116.htm?s=>>.



b) In August 2003, Amnesty International published a report focusing on the ten-year cycle of the abductions and murders of girls and women in Ciudad Juárez and Chihuahua in northern Mexico.<sup>28</sup> The report documented more than 370 cases of women killed. Amnesty International research indicated that of those cases, at least 137 of the victims suffered some form of sexual violence and at least 70 remain unidentified. At least 70 women or girls who were reported missing also remain unaccounted for. When the mothers of the victims, all of whom came from marginalized and poverty-stricken environments, successfully took the first step towards seeking justice for their murdered daughters, they met with governmental indifference. These mothers had already been fighting for ten years for the federal government to investigate the unsolved murders. Thousands of people around the world used ICT to take up the mothers' cause and made it impossible for them to be ignored by Mexican authorities. Although only a few of the 300 cases have been solved the authorities can no longer ignore the situation. Because of ICTs, this situation is now a worldwide issue, as are other atrocities committed around the world. A web of international solidarity globalized their struggle. As Irene Khan, Amnesty International's Secretary General, wrote: "Looking at them, I saw how much can be achieved for human rights through the dynamic virtual space of global civil society."<sup>29</sup>

c) In December 2003 the report "Mexico: Prisoners of Conscience"<sup>30</sup> highlighted the misuse of the Mexican judicial system. Unfounded criminal charges are often fabricated in order to silence dissidents or opposition by civil societies. The failure of federal, state and municipal authorities to ensure that such abuses do not occur continues to encourage the misuse of the judicial system.

Cases like the above mentioned might not have been brought out into the open if national and international organizations such as Amnesty International and Human Rights Watch had not had access to ICT tools. In this sense, globalization is what Joseph Stiglitz calls "a force for good"<sup>31</sup> involving the dissemination of ideas on implementing democracy as well as civil groups changing the way people think.

<sup>28</sup> Amnesty International, "Mexican women live in fear" *The Wire* (August 2003), online: Amnesty International <<http://web.amnesty.org/wire/August2003/Mexico>>.

<sup>29</sup> Irene Khan, "Why human rights matter: A message from Irene Khan, Amnesty International's Secretary General," online: Amnesty International <<http://web.amnesty.org/report2004/message-eng>>.

<sup>30</sup> Amnesty International, "Mexico: Prisoners of Conscience" Urgent Action 193/04, AI Index: AMR 41/022/2004, online: Amnesty International <<http://web.amnesty.org/library/index/ENGAMR410222004>>.

<sup>31</sup> Joseph E. Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton & Company, 2002) at 248.

### III. Access to Global Information and Knowledge: Can the WSIS Declaration of Principles and Plan of Action Go Beyond Good Will?

In May, 2003, the Mexican Senate organized an international conference in preparation for the Geneva 2003 WSIS meeting. Representatives from government, the telecommunications industry, civil society organizations, and universities participated, debating ideas concerning technological convergence and its social impact, democracy, information communication and the use of ICT, and knowledge as opposed to mere information. An attempt was also made to define the elements and the human face of ICT development in the country.

Mexican public universities play a key role not only in the access to ICTs but in capacity-building, facilitating material for education with quality content, and in documenting and preserving information and knowledge. One notable development is the creation of centers for advanced studies via the Internet, a program widely used for educational purposes by those who live far from the campus.<sup>32</sup> Another successful example is the Dirección General de Servicios de Cómputo Académico (DGSCA) at the National Autonomous University of Mexico (UNAM), which is in charge of operating the university's central telematics system and technology training, bringing technology to faculties, research centers, students and society.<sup>33</sup> The project offers a videoconference network, a centre for software engineering, interactive on-line courses and workshops, academic extension centres, computing for children, e-journals and a digital library. It also works closely with the Internet-2 broadband academic network, connecting the most important universities and research centres, laboratories and libraries in the country.<sup>34</sup>

In order to follow a multidisciplinary and multicultural vision in using ICTs as a development tool, we must be aware of tendencies to homogenize information on the Internet in terms of Western capitalism and to ignore the rich and healthy diversity of global society.<sup>35</sup>

There is a clear discrepancy between the governmental programs to bridge the digital divide and the results shown in indicators for accessing ICTs. The project e-Mexico,<sup>36</sup> which was the Mexican government's most ambitious project to connect its citizens to the Information Society, needs to be revamped, or else it will continue to fail. The attempted solution consisted of trying to apply ICTs to: (i) create digital communities working with technological tools (chats, forums, virtual communities, advertising, etc.) that would allow people to interact and share similar interests and needs; (ii) open a virtual space to connect groups regardless of race, gender, economic

<sup>32</sup> See e.g. Tecnología para la Educación, Centro de Operaciones de Videoconferencia, online: <<http://distancia.dgsca.unam.mx>>.

<sup>33</sup> Alejandro Pisanty Baruch, "Quiénes Somos," online: DGSCA, UNAM, <<http://www.dgsca.unam.mx/somos.html>>.

<sup>34</sup> Corporación Universitaria para el Desarrollo de Internet, "Qué es CUDI," online: Corporación Universitaria para el Desarrollo de Internet <[www.cudi.edu.mx](http://www.cudi.edu.mx)>.

<sup>35</sup> See Jonathan Friedman, *Cultural Identity & Global Process* (London: Sage, 1994) at 102-104.

<sup>36</sup> "E-Mexico", online: E-Mexico <[www.emexico.gob.mx](http://www.emexico.gob.mx)>.

status or religion, to build a political arena where government can be made aware of different needs, interests and opinions; (iii) bridge the economic gap between rich and poor by creating Community Digital Centers (Centros Comunitarios Digitales) that offer public access to the tools of information technology and the appropriate training to use them.<sup>37</sup>

La Neta, created in 1991 by a group of citizens to unite diverse NGOs and citizens for the exchange of information concerning human rights, was the first civil organization focused on the use of ICT tools for the exercise of democracy. This was an important first step away from the past, when dissidents lived in constant fear for their lives, towards the exercise of power by citizens. The importance of this step in Mexico's march towards a democratic society should not be underestimated. It brought electronic communication service to NGOs and all kinds of civil society groups. The majority of its 1300 users are non-profit organizations.<sup>38</sup> Through La Neta, these groups can share information, strengthening their bonds, and use virtual space as a tool of development and a channel for communication. In 1998, these organizations launched a project to break down information on ecology, gender, human rights and community initiatives regionally.

A legal data protection framework for the private sector is still in development and will need to be approved by the federal legislature. Such a law must protect the constitutional principles of privacy of habeas data, as well as conform to the OECD 1980 *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*,<sup>39</sup> the 1998 *Ottawa Ministerial Declaration on Protection of Privacy in Global Networks*,<sup>40</sup> and various obligations adopted under NAFTA, APEC and the EU.

However, while there are some groups, including universities in Mexico, that are focused on analyzing ICTs in relation to the Tunisia 2005 WSIS meeting, there seems to be no governmental interest in developing public policies concerning human rights and the implementation of the WSIS *Declaration of Principles and Plan of Action*.

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Historical socio-economic factors, an inefficient judicial system, and non-autonomous, non-accountable public human rights institutions are the causes of the non-enforceability of human rights laws in Mexico. Capacity-building and ICT literacy are essential for lawyers, judges, public prosecutors, mediators and law

<sup>37</sup> *Ibid.*

<sup>38</sup> La Neta, "Quiénes Somos," online: La Neta <<http://www.laneta.apc.org/nuevaneta/QuienesSomos.htm>>.

<sup>39</sup> OECD Council, *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data* (Paris: OECD, 1980).

<sup>40</sup> OECD Council, *Ministerial Declaration on the Protection of Privacy on Global Networks* (Paris: OECD, 1998).

enforcement agents, all of whom play an essential role in this historic transition by changing the mentality needed for people to insist upon an ethical code and culture of human rights and the rule of law. Government and ICT stakeholders must formulate the basic conditions necessary in Mexico to fulfill the potential offered by the WSIS *Declaration of Principles* and *Plan of Action*.

Contemporary Mexico is global a human rights player, but the gap between reality and the so-called goals and statements of the government remains significant. There is a lot of work yet to be done in the process, and much of it will be in the hands of the younger generation, many of whom are ICT users and are just realizing the power of the individual to contribute, direct, and change the nature of society.

I would like to conclude with the words of Amnesty International's Secretary General, Irene Khan: "In times of uncertainty the world needs not only to fight *against* global threats, but to fight *for* global justice. Human rights are a banner to mobilize people globally in the cause of justice and truth."<sup>41</sup>

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<sup>41</sup> *Supra* note 29 [emphasis original].