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CONDUCTING CRITICAL ANALYSIS ON INTERNATIONAL COMMUNICATION RIGHTS STANDARDS

The Contributions of Graphical Knowledge Modeling

Normand Landry, Anne-Marie Pilote, and Anne-Marie Brunelle

ABSTRACT

Using the computerized application of Modeling using Object Types (MOT) theory, this article examines the normative dimension of official interpretations of a corpus of core “communication rights” (the right to freedom of opinion and expression, the right to privacy, the right to participate in cultural life, and the right to education) enshrined and protected by the International Covenants on Human Rights. This article proposes a methodological contribution whereby the computerized application of knowledge modeling theory promotes the analysis and popularization of international human rights standards. Research findings draw attention to significant conceptual deficiencies included as part of international human rights standards. These deficiencies undermine the applicability of these standards and their relative usefulness in the context of complex sociopolitical issues relating to communication. In addition, this article underscores the need for communication rights studies to further integrate contributions from the field of international human rights law research. It demonstrates that interdisciplinary dialogue can open up new research agendas for communication rights scholars and contribute to a renewed critical analysis of international human rights standards. Keywords: communication rights, General Comments, International Covenants on Human Rights, standard-setting in human rights, Modeling using Object Types (MOT)

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This article presents the methods and results of a computer modeling process that has been applied over a set of international legal interpretations of human rights known as “General Comments.” It falls within the field of communication rights studies and seeks to contribute to it in three distinct ways.

First, it presents an innovative process of human rights analysis based on the creation and validation of digital concept maps. These maps highlight the conceptual architecture of human rights, their contents and limitations, and the obligations that they impose on States. Thus, they translate complex legal norms and principles into an accessible and understandable visual language that can be appropriated by academics, lawyers, policy makers, and civil society groups. This article makes a methodological contribution whereby the computerized application of knowledge modeling theory promotes the analysis and popularization of international human rights standards.

Second, computer modeling of legal interpretations captures the political interests and power relations embedded in the very structure of official legal interpretations of human rights. It also identifies textual ambiguities, logical errors, omissions, and inaccuracies in the “construction” of these rights. Consequently, computer modeling problematizes concepts and norms mobilized in the field of communication rights studies, while simultaneously contributing to the field of international human rights law research.

Third, this article demonstrates the need for a more sustained dialogue between communication rights studies and the field of international human rights law research. The literature that draws on the concept of “communication rights” is very sparing when it comes to legal analyses of human rights.¹ This concept remains primarily confined to disciplines within the social sciences,² and research using this concept largely fails to draw on writings of a legal nature in addressing the rights that it covers. This article will show that the integration of legal analyses into the field of communication rights studies can open up a new research agenda oriented around the critical analysis of international human rights standards. It will argue that this integration fosters a reconceptualization of human rights as

1. Hamelink.

2. Padovani and Calabrese; Landry, *Droits et Enjeux de la Communication*; Raboy and Shtern.

“communication rights,” moving from discursive and analytical tools to objects of political struggle.

Structure of the Article

The article is divided into three main sections. The first section begins with a general introduction to communication rights studies, then presents the characteristics of the General Comments that were analyzed in the framework of our study, and finally describes the modeling method and process that we followed.

The second section presents the main results of our modeling process. It highlights the constitutive elements of rights, the obligations that States have toward them, legitimate and illegitimate limitations to the exercise of these rights, the relationship that they maintain with other international human rights standards, and the lexical field within which they fall. The section concludes with a critical analysis of the General Comments with a special focus on the policy interests embedded in them.

The third section presents the ways in which critical analyses in international human rights law can contribute to communication rights studies. To this end, it highlights issues of a political nature in tandem with the conceptual clarity that international legal standards bring to bear on communication rights. It also stresses the need to better identify and to deconstruct the political rationales and interests embedded in international human rights norms.

We finally conclude by highlighting the methodological renewal enabled by the modeling of legal texts and discuss our contributions to communication rights studies. While the literature continues to treat the concept of communication rights primarily as a discursive and analytical *tool* mobilized for the purposes of critical analysis and articulating social and political demands centered around the democratization of communication,³ we demonstrate that legal analysis of human rights raised by the concept of “communication rights” favors a reconceptualization of the latter as *objects* of political struggle. This approach opens up research agendas that have been mostly unexplored until now by researchers mobilizing the concept of “communication rights.”

3. Raboy; McLeod.

A Brief Introduction to Communication Rights

A well-established literature positions communication in close connection with a corpus of universal human rights, thereby attesting to the role that it occupies in the democratization of societies, social integration, and the achievement of individual potential.⁴ From the middle of the 20th century, international efforts sought to present communication as a fundamental right that needed to be integrated into the main multilateral human rights treaties.⁵ However, the proposed addition of a “right to communicate” encountered a stumbling block in the global geopolitical context and was abandoned.⁶

Since the early 2000s, a community of researchers, practitioners, civil servants, and human rights activists has been mobilizing the concept of “communication rights” in order to evoke and bring together a corpus of human rights that is considered to play a key role in the area of human communication.⁷ As such, the idea of communication came as a conceptual and strategic redirection following the failure of discussions around the establishment of a new human right focussed on communication. As Landry argues:

While the concept of the “right to communicate” calls for a new human right to be entrenched in international law, the concept of “communication rights” calls for the full respect, adequate implementation, and protection of a set of human rights that have now been recognized and that have substantial impacts in the area of communication.⁸

These rights are currently raised politically in order to support and legitimize public arguments associated with the democratization of societies.⁹ In this regard, they fall under the discourse and argumentation repertoire of individuals and groups mobilized on issues of censorship,

4. Dakroury; Hamelink and Hoffmann.

5. Landry, “Médias, Technologies et Droits Humains”; Dakroury, Mahmoud, and Kamalipour; Fisher, “The Right to Communicate”; Harms and Richstad; Posorski; Hamelink; Calabrese.

6. Dakroury; Hamelink and Hoffmann; Pickard; Fisher, *Le Droit à la Communication*.

7. Padovani and Calabrese; Raboy and Shtern; Landry, *Droits et Enjeux de la Communication*; Sen; Mathiesen; Raboy and Landry; Raboy et al.

8. Landry “Médias, Technologies et Droits Humains,” 73.

9. Hackett and Carroll.

digital divide, access to knowledge and culture, intellectual property, freedom of expression, media concentration, hate speech on social media, and surveillance.¹⁰

In practical terms, the concept of communication rights refers to a set of rights and freedoms integrated into international human rights law. These rights are imbued with controversies involving sociopolitical issues at play in mediatized communication. They are also strongly influenced by technological innovations and transformations taking place in the communications sector, and they are the focus of commitments by States to respect, protect, and fulfil them.¹¹ The concept of “communication rights,” therefore, refers to a set of human rights enshrined in international human rights law, whose protection and effective realization are considered necessary by a growing community of scholars so that they can be fully and safely integrated into modern communication processes and activities.¹² The concept of communication rights is thus derived from the recognition that freedom of expression is a necessary but incomplete condition for all members of society to fully participate in public communication. A set of complementary rights is considered necessary for converting freedom of expression into a tangible and concrete individual capacity. Each communication right, therefore, touches on one or more fundamental aspects of communication: *access*—to education, technology, knowledge, culture, arts, and public forums; *participation*—in the public sphere, in the political, cultural, and artistic life of a community; and *protection*—from hateful speech, invasion of privacy, and attacks upon one’s honor and reputation.¹³

While not exhaustive, the following table presents a set of communication rights that are protected and guaranteed by the International Bill of Human Rights, the foundation that supports the modern international legal and administrative structure for human rights, and the three legal instruments that comprise it: the Universal Declaration of Human Rights (UDHR) and the International Human Rights Covenants (the International Covenant on Civil and Political Rights [ICCPR]), and the International Covenant on Economic, Social and Cultural Rights [ICESCR], as well as the Optional Protocols to the Covenants).

10. Tumber and Waisbord; Jørgensen, *Human Rights in the Global Information Society*; Milan; Kidd.

11. Landry, *Droits et Enjeux de la Communication*.

12. Raboy and Shtern; Dakroury, Eid, and Kamalipour.

13. Landry, *Droits et Enjeux de la Communication*.

Communication Rights	Related Articles in the International Bill of Human Rights
Right to education	Arts. 18 and 26, UDHR; Art. 18, ICCPR; Art. 13 ICESCR
Right to benefit from scientific progress and its applications	Art. 27, UDHR; Art. 15, ICESCR
Right to freedom of opinion and expression	Art 19, UDHR; Art. 19, ICCPR
Right to freedom of thought, conscience, and religion	Art. 18, UDHR; Art. 18, ICCPR; Art. 13, ICESCR
Right to freedoms of assembly and association	Art. 20, UDHR; Arts. 21 and 22, ICCPR
Right to self-determination	Art. 1, ICCPR; Art. 1, ICESCR
Right to participate in public affairs	Art. 21, UDHR; Art. 25, ICCPR
Right to take part in cultural life	Art. 27, UDHR; Art. 15, ICESCR
Artistic and scientific freedom	Art. 27, UDHR; Art. 15, ICESCR
Right to privacy, honor, and reputation	Art. 12, UDHR; Art. 17, ICCPR
Right to protection of moral and material interests of authors	Art. 27, UDHR; Art. 15, ICESCR

*Adapted from¹⁴

The provisions enshrined in the Charter provide both the conceptual tools and the common language necessary for addressing complex media issues, while providing normative standards for elaborating and evaluating public policies. Although there is a substantial body of literature on communication rights, there is still no definitive list of “communication rights.” Moreover, a consensual interpretative framework on the normative substance of these rights still has to be established among scholars who use this concept.¹⁵ Few specialists have carried out a detailed and systematic analysis of the conceptual and legal substance of communication rights¹⁶ or have comprehensively addressed the public policy issues surrounding their implementation at the national level.¹⁷ The concept of “communication rights” consequently refers to a set of rights whose boundaries are imprecise and whose substance is still unclear. This is both productive and limiting from a scientific and political perspective. Such malleability allows

14. Landry, “Médias, Technologies et Droits Humains,” 74 (also see Hamelink; CRIS; Cammaerts and Carpentier; Raboy and Shtern).

15. Padovani and Calabrese.

16. Hamelink.

17. Raboy and Shtern.

for this concept to be transposed into a wide variety of national and international contexts. As we will see below, this makes the concept of “communication rights” a powerful discursive and analytical tool for dealing with sociopolitical issues of communication and communication policies.

Conceptual and Lexical Development: Speaking the Language of Power

Samuel Moyn,¹⁸ a historian specializing in the development of human rights, considers that human rights began to emerge in the 1970s as an international common vocabulary for social justice struggles. Following this period, “a variety of groups around the world, and all governments, learned to speak [its] language.”¹⁹ This language is legal in nature; it confers rights, responsibilities, and obligations, and it seeks to define universal standards for the regulation of State behaviors toward the people living under their jurisdiction.²⁰ In this regard, the concept of “human rights” evokes, for Wheatley, “a code that outlined a notion of good, human rights respecting, government, reflecting the importance of equal status, physical and psychological integrity, personhood, participation, and minimum welfare rights.”²¹

The literature attests to an appropriation by an international community of researchers of this “code,” of this “language” specific to human rights, in order to generate three specific types of contributions. First, language, vocabulary, and standards specific to human rights are used in order to translate complex sociopolitical issues into discourses that are viewed as acceptable and understood by political and legal institutions.²² Sociopolitical issues associated with media, communication, and culture are presented through the lens of fundamental human rights. These issues include digital divides; communication-related discrimination on the basis of gender, race, culture, language, and social class; the repression and censorship of expression, surveillance, and the protection of intellectual property.²³ This work of “translation” promotes dialogue on national and

18. Moyn.

19. Moyn, 218.

20. Buchanan.

21. Wheatley, 196.

22. Tumber and Waisbord; Greer.

23. Landry, *Droits et Enjeux de la Communication*; O’Neill; Hackett; Goggin.

international public policies relating to communication. Second, international human rights norms and standards now constitute analytical tools used in critical communication policy research.²⁴ Third and finally, the set of conceptual instruments associated with human rights is mobilized in order to legitimize and support calls for political, institutional, and legal change in the area of communication.²⁵ Research associating a corpus of human rights with communication issues or policy is, therefore, often normative and seeks to contribute to social, policy, or legal change.

Modeling Communication Rights

Those who devote themselves to analyzing communication rights need to consider five factors: the nature of the claims connected with these rights (what is being claimed or required); the identification of the actors that are the objects of claims (first and foremost, the State, but also private actors); the conceptualization of the object of the claim (e.g., what is meant by “freedom of conscience,” by “privacy,” by “freedom of expression”); the identification of the holders of a right and its primary beneficiaries; and finally, the tensions and conciliations between these rights.²⁶ Recurring debates can be observed on each of these factors, which are the subject of political and legal disputes within international human rights institutions. Thus, it appears that the concept of “communication rights” shared among a community of social sciences scholars can mask strong disagreements on the nature, limits and obligations associated with the human rights covered. Accordingly, to understand the political implications of communication rights, it is necessary to examine their conceptual and legal dimensions in depth. This is achieved, among other things, through deconstructing the official and legitimate²⁷ interpretations of the communication rights enshrined in the UDHR and the Covenants.

24. Lucchi; Felczak, Smith, and Glass; Moyo.

25. Cammaerts and Carpentier; Padovani and Calabrese; Thomas.

26. Freeman.

27. Abline; Donnelly and Whelan; Evans.

General Comments and International Standard-Setting in Human Rights

Adopted in 1966 by the United Nations (UN) General Assembly and implemented 10 years later, the ICCPR and the ICESCR, along with their Optional Protocols, are the first multilateral human rights treaties that have mandatory legal force. The two Covenants are intended to clarify the standards set out in the UDHR and to establish monitoring mechanisms to ensure their implementation. They are the two most important international human right treaties.

The United Nations Human Rights Committee (Committee on Civil and Political Rights [CCPR]) and the United Nations Committee on Economic, Social and Cultural Rights (Committee on Economic, Social and Cultural Right [CESCR]) are, respectively, empowered to broaden and monitor the applicability of the rights protected by the ICCPR and the ICESCR.²⁸ These two Committees have four main tasks:

1. They review the States' reports on the measures adopted to give effect to the rights enshrined in the Covenants
2. They investigate inter-State complaints concerning Covenant violations
3. They receive and investigate individual complaints filed under the Optional Protocol to the ICESCR, and under the Optional Protocols to the International Covenant on Civil and Political Rights
4. They draft and adopt General Comments on the articles of the Covenants.

According to Moeckli, the drafting and adoption of the General Comments "constitute the first and main means for the committees to define the normative content of the Covenants."²⁹ Taking the form of an authorized and authentic interpretation of the rights protected by the Covenants, the General Comments expand upon the intent of these rights (content, extensions, and limits), and define the specific obligations of States, which have primary responsibility for their implementation.³⁰ Considered as "a living instrument that remains as relevant to the

28. The CCPR was established in 1976, while the CESCR was created in 1985. The decade that separates the establishment of the two committees is explained by the fact that the ICESCR did not originally anticipate establishing a committee that would ensure its implementation. See Moeckli.

29. Moeckli.

30. Schmidt.

contemporary challenges of today as it was when it was adopted,³¹ they are periodically rewritten and further updated in light of current issues.³² The General Comments set out guidelines, or normative guides, on which the States rely in order to comply with their obligations regarding the rights included in the Covenants.³³

Although, the CCPR and the CESCR have published nearly 60 General Comments³⁴ since 1981, the status and functions of these documents are still not well understood. In fact, there has been relatively little scholarly focus on the importance that should be given to these publications. From what little has been written on the status of General Comments, it would seem that it falls short of positive law.³⁵ General Comments nonetheless play a substantive legal role in the elaboration of standards and possible future norm within the complex matrix of international law.³⁶ According to Blake, it is clear that their legal status has grown over the years beyond a mere technical recommendation into an authoritative source of interpretation.³⁷ They are often viewed as “quasijudicial” and as carrying “enormous political and moral weight.”³⁸ In practice, the General Comments have taken the form of a powerful and indispensable juridical tool that assists in reinforcing standards, as well as in pushing the boundaries of

31. Security Council, SC/12241.

32. By way of example, in July 2011, the CCPR adopted a new version of the General Comment on the right to freedom of opinion and expression (Article 19 of the ICCPR). In particular, the first version (1983) did not take into account the “current reality of a globalized communications environment dominated by Internet-based technologies” (CCPR/C/2011/2) and did not address any of the restrictions authorized in accordance with paragraph 3, Article 19 of the ICCPR, namely, restrictions expressly set by law and necessary for the “respect of the rights and reputations of others” and “the protection of national security or of public order, or of public health or morals.” These restrictions were precisely the subject of the main controversies regarding the scope of the right. See Mechlem.

33. It should be noted here that our work does not assess the extent to which states are fulfilling their international obligations under the International Covenants on Human Rights. The process of transposing international law into national law is complex and dynamic. It requires both legal analysis and analysis of the legislative work carried out by public authorities. This is beyond the scope of our study. Our work is limited to a critical analysis of texts that establish and clarify international human rights standards. A second step would be to look at the processes by which states transpose these standards into national law, or fail to do so.

34. 59 to be exact; 25 for CESCR and 34 for CCPR.

35. Gerber, Kyriakakis, and O’Byrne.

36. Keller and Grover.

37. Blake.

38. Otto; Keller and Grover.

international human rights law.³⁹ They are now cited in arguments and judgments at the national level. Internationally, they have been relied on to establish propositions of law by the Grand Chamber of the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Commission on Human and Peoples' Rights, as well as by UN treaty bodies and international criminal tribunals.⁴⁰

By building a body of case law and clarifying human rights standards, General Comments encourage greater implementation of the Covenants by States Parties. They are, therefore, normative beacons that states can mobilize to translate abstract international legal norms into national policies, laws, and regulations.

Deconstructing the General Comments through a Modeling Process

The following sections provide a critical analysis of the standards laid down by the ICCPR and the ICESCR on a corpus of human rights closely associated with communication. For this purpose, we will present a method to graphically deconstruct the substantive nature conferred on each of the rights discussed, thus illustrating its constitutive dimensions, general architecture and limits, the obligations that the right imposes on the actors involved, and its links with other rights. This process, which is achieved through the computerized application of Modeling using Object Types (MOT) theory, makes it possible to identify the relationships of political power that permeate these interpretations, paying attention to the language used in the General Comments, and the processes used to draft and adopt these documents. There are inevitably power issues that are reflected in the General Comments. Indeed, their writing process is conducted through negotiations. They are adopted by consensus and represent common grounds over human rights standards.⁴¹ The analysis produced in this manner aims to support a critical assessment of human rights standard-setting.

The corpus analyzed in the context of this project consists of eight General Comments drafted over more than 30 years by the monitoring committees for the ICCPR and the ICESCR.

39. Alston.

40. Keller and Grover.

41. Flaherty, "Freedom of Expression."

The Comments studied provide an interpretation for the articles listed below:

- Article 13: Right to Education (ICESCR); General Comment No. 13 (1999)
- Article 15-1 (a): Right to Take Part in Cultural Life (ICESCR); General Comment No. 21 (2009)
- Article 15-1 (c): The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from Any Scientific, Literary or Artistic Production of Which He or She is the Author (ICESCR); General Comment No. 17 (2005)
- Article 17: The right to respect for private life (ICCPR); General Comment No. 16 (1988)
- Article 18: Right to freedom of thought, conscience, and religion (ICCPR); General Comment No. 22 (1993)
- Article 19: Freedom of opinion and expression (ICCPR); General Comment No. 34 (2011)
- Article 20: Prohibition of propaganda for war and inciting national, racial, or religious hatred (ICCPR); General Comment No. 11 (1983)
- Article 25: The Right to Participate in Public Affairs (ICCPR); General Comment No. 25 (1996)

This corpus was established for three main reasons. First, these General Comments have been drafted over a long period of time—28 years—which makes it possible to appreciate the ways in which they have evolved in form and content. Second, these documents were drafted by either the CCPR or the CESCR, allowing for evaluation and comparison of their respective work. Third, they address issues of access, participation, and protection that are central in communication rights scholarship. As a result, General Comments have been selected according to the following criteria: the search for a balance between the categories of communication rights; the integration of General Comments having been written at different periods as a way to assess the evolution of the texts over time; the working capacity of the team. Subsequent work will make it possible to broaden the corpus as well as the analyses carried out on it.⁴²

42. The corpus mobilizes the most recent General Comments for each studied right. Where they have been rewritten, previous General Comments (or early drafts) of these rights have not been analyzed. As a result, it assembles and presents the current state of the interpretations enshrined in international law.

Our work of conceptual deconstruction was carried out using MOT (*Modeling using Object Types*) graphical knowledge representation software. Through digital concept maps, this software makes it possible to divide the content of the General Comments into separate parts (components, obligations of States, limitations), thus helping to bring to light the interpretation work done by the monitoring committees for the Covenants and to display how these rights can be translated into public policies.

MOT—Graphical Representation Software for the Classification and Display of Complex Knowledge

Developed at TÉLUQ University's LICEF Research Centre by multidisciplinary teams in cognitive sciences led by Gilbert Paquette,⁴³ MOT software arose from the computerized application of a knowledge modeling theory that aims to schematically represent complex systems, processes, methodologies or, in the specific case at hand, texts. The specificity of modeling is to simultaneously constitute a method of learning, analysis, and knowledge transfer.⁴⁴ Modeling work also allows the acquisition of new knowledge and skills within the research team itself. It constitutes an active learning act, structuring, classifying, and analyzing information, allowing the acquisition of knowledge by the modeler, who will then be able to transfer his knowledge to external audiences. In addition, modeling processes generate concept maps that bring together complex, multilevel, and interrelated schemas. The simplicity and flexibility of the graphical language used in these maps allow users to easily appropriate them—and thus assimilate knowledge—but also to adapt and correct them as they see fit. In this respect, modeling offers a method of dialogical and collaborative knowledge construction between specialists and users, which distinguishes it from the approaches traditionally used in textual analysis. The maps created by the modeling process are scalable and adaptable to user needs.⁴⁵

Conceptual maps present complex models structured in “tiers.” Each floor hosts a schematic that presents information from the same level. The user is prompted to read the schematic and then identify elements that have submodels, which can be freely accessed. The upper floors include submodels presented at lower levels, from the most general to the most

43. Paquette, “La Modélisation par Objets Typés.”

44. Basque and Pudelko.

45. Paquette, *Modélisation des Connaissances et des Compétences*.

specific. There is no limit to the number of submodels that can be included in a concept map. The user is thus called upon to navigate between the levels (or submodels) of concept maps. He can proceed in an ascending or descending manner. Different concept maps can also be hyperlinked to each other, and elements specific to one or more maps can be directly linked.

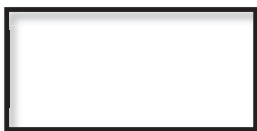
Modeling processes are based on the handling and appropriation of a software-specific alphabet that groups together various types of knowledge and relationships between maps. This alphabet makes it possible to construct a variety of models and, based on the choices made, “translate” disparate elements into the same language, thus favoring a systems approach that allows for developing concept maps⁴⁶ that are comparable to one another.

Knowledge

Knowledge is represented by geometric figures that identify its type. It can be abstract or factual. According to Paquette,⁴⁷ **abstract knowledge** should be seen as schemas or molds that allow the substance that emerges from complex texts to be classified and summarized into coherent sets.

The software designed for MOT distinguishes between three types of abstract knowledge: concepts, procedures, and principles.

- (1) *Concepts* describe the objects, persons, and events of a given area; they answer the question *what*. In the area of international human rights law, examples of concepts can be “freedom of expression,” “cultural diversity,” “privacy,” “obligations,” and “components of the right.” The symbol used to represent a concept is a rectangle.



- (2) Also illustrated by a rectangle in our graphical models, *procedures* illustrate *how* something is achieved, that is, operations for acting on objects, persons, and events. In the general comments, procedures pertain to the different obligations that States must fulfil in order to

46. Ibid.

47. Ibid.

guarantee the exercise of rights. Such procedures may involve “respecting the freedom indispensable for scientific research,” “eliminating legal obstacles,” or “respecting the principle of consent.”



- (3) Principles⁴⁸ depict the properties of objects, establish causal links between objects; they answer the question *why*. The *principles* also determine the conditions under which to apply a procedure, and answer the question *when*. Often, principles take the following form: “under this condition, then this action will apply.” In the field of international human rights, principles always include the following, among other things: “limitations to the right by a State party are permitted only if a state of emergency is declared *de jure*” or “the right to freedom of expression is imperative and immediately applicable.” The symbol used to represent a principle is a flattened hexagon.



Factual knowledge is the raw material extracted from the texts analyzed. Two types of factual knowledge (out of three possible types) met the requirements of the modeling work: statements and examples.

- (1) *Statements* consist of groups of words/sentences/paragraphs taken in full from the General Comments studied on which the proposed concepts and principles are based. We used statements to ensure that all of the content of the General Comments analyzed was included in the concept maps. The symbol used to represent a statement is a flattened hexagon with a dotted outline.



48. The definition of principles in MOT should not be confused with the definition of legal principles (as legal rules of a general nature that serve as a basis for texts, usually of a legislative nature, with which citizens must comply).

- (2) *Examples* are obtained by specifying the values of each of the attributes of a concept. Thus, in international human rights law, examples of the concept of “forms of opinion” are “political,” “scientific,” “historic,” “moral,” and “religious.” The symbol used to represent an example is a rectangle with a dotted outline.



Relationships

Once the types of knowledge have been identified, it is necessary to establish the type of relationships that connect them. In MOT graphical language, these relationships are represented by arrows pointing in a particular direction, accompanied by a letter designating the relationship. Of the seven relationships allowed by MOT, five have proven useful for deconstructing the General Comments: *composition relationships (C)*, *specialization relationships (S)*, *precedence relationships (P)*, *application relationships (A)* and *regulation relationships (R)*.

- The composition relationship (C)

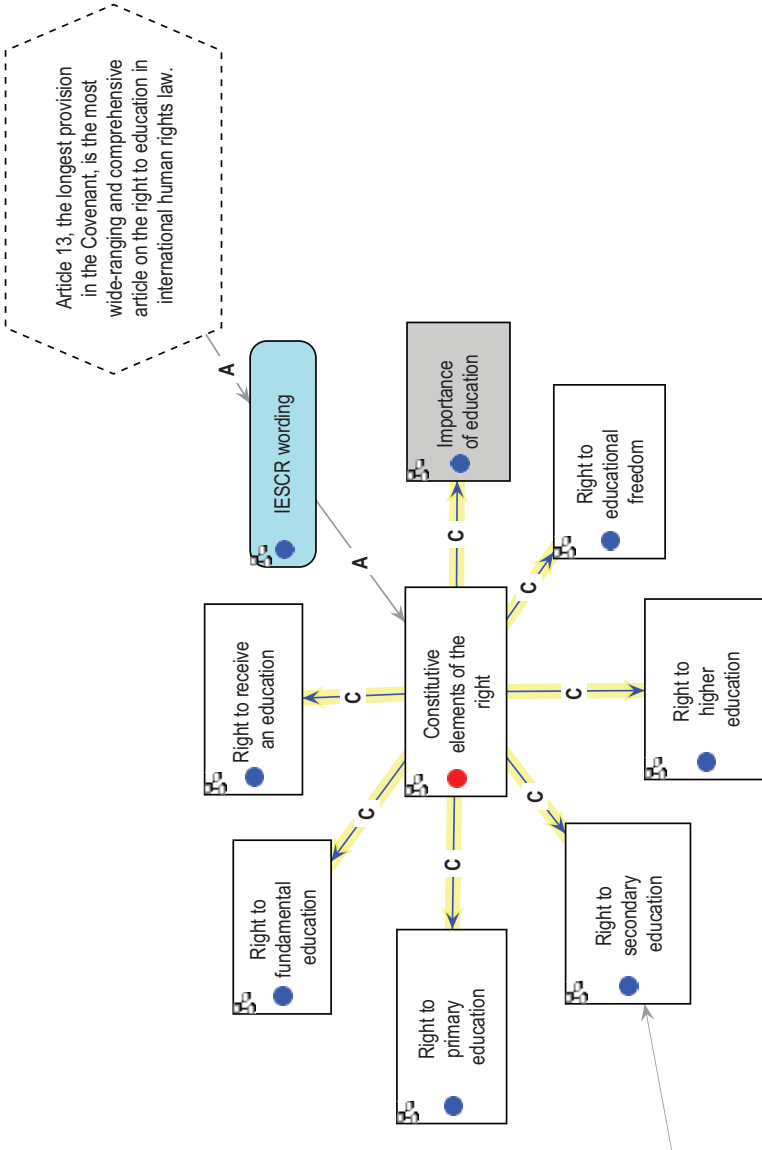
This relationship connects an element of knowledge with one of its components or constituent parts. Thus, the attributes of an object, such as the components of an element of knowledge, can be specified by connecting the object to each of its attributes through a composition relationship: “is comprised of.”

Figure 1 illustrates the composition relationship. In this concept map, generated by modeling the right to education, we can see that the “constitutive elements of the right” are made up of the “right to secondary education,” the “right to higher education,” the “right to primary education”, and so on.

- The specialization relationship (S)

This relationship connects two elements of abstract knowledge of the same type, of which one is “sort of” like or a special case of the other one. In other words, the second is more general or more abstract than the first.

Figure 2 makes it possible to display how the specialization relationship operates. The MOT-generated graphical map of the restriction imposed on the *Prohibition of propaganda for war and inciting national, racial, or religious hatred* highlights that “advocacy of the sovereign right to self-defence”



Note : This right is not defined as such in the French version of the text, except in the obligation section

FIGURE I Article 13 (ICESCR): Constitutive elements of the right to education.

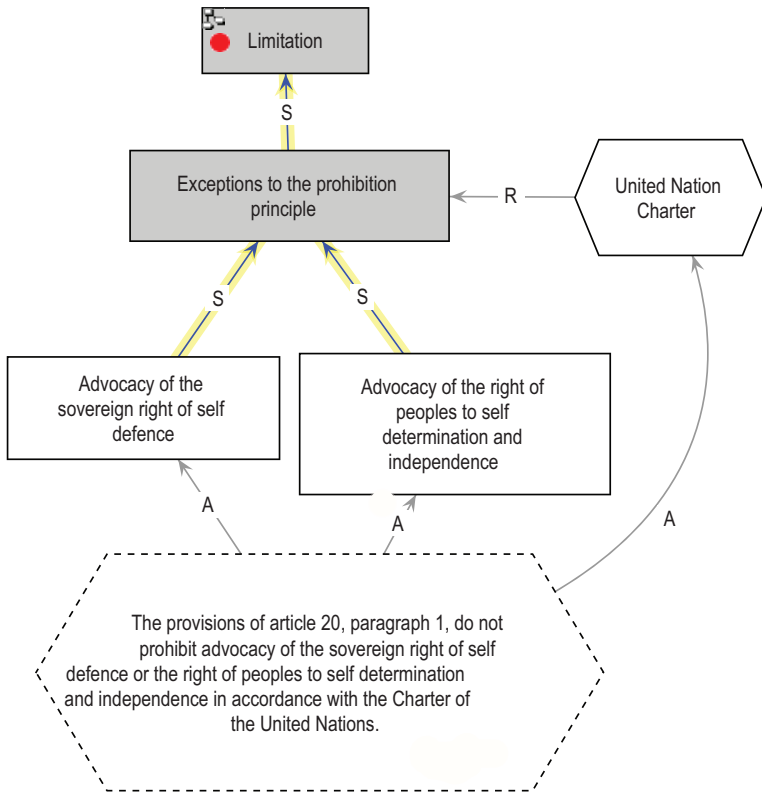


FIGURE 2 Article 20 (ICCPR): Restriction on the Prohibition of propaganda for war and inciting national, racial, or religious hatred.

and “the right of peoples to self-determination and independence” are sorts of “exceptions to the prohibition principle.”

- The precedence relationship (P)

This relationship connects two procedures, two concepts, two statements, or two principles, of which the first one must be completed or evaluated before the second one begins.

Figure 3 makes it easier to understand the precedence relationship. In the MOT map detailing the concept of acceptability of the right to participate in cultural life (Article 15 1 (a) of the ICESCR, General Comment No. 21), it is indicated in the statement on the right-hand side that the cultural laws and policies adopted by a State should be developed and implemented in an acceptable manner. “In this regard,” thus in relation to the preceding object, the statement on the left-hand side suggests organizing consultations to achieve this.

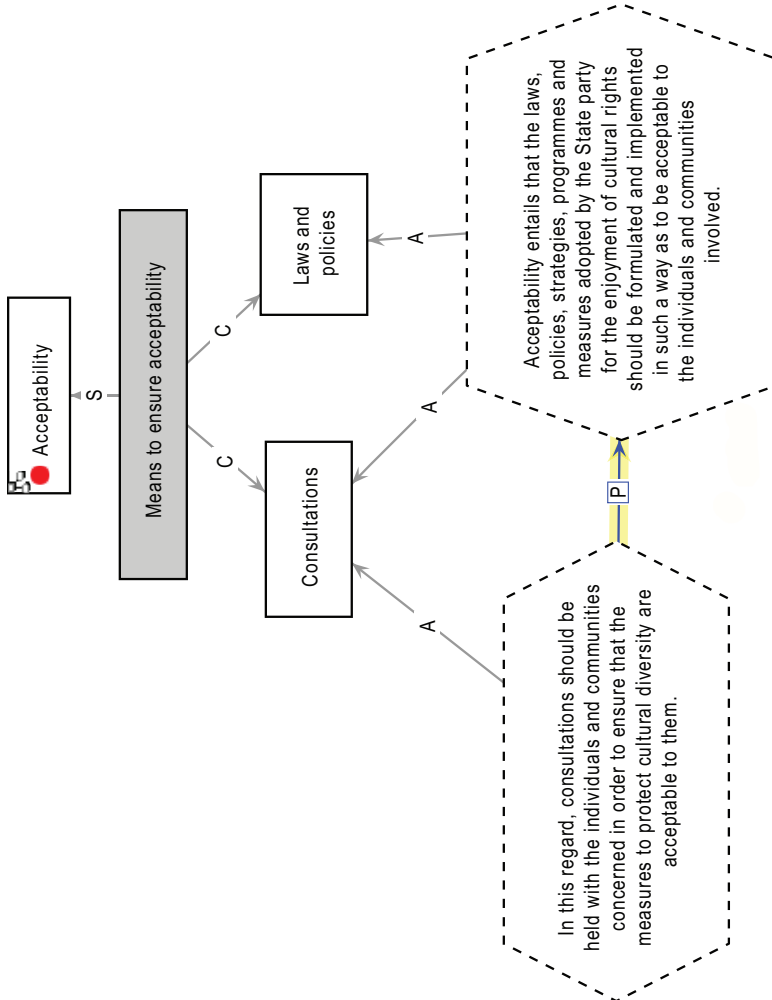


FIGURE 3 Article 15.1 (a) (ICESCR): Concept of *acceptability* of the right to take part in cultural life.

- The application relationship (A)

This relationship connects a fact, an example, or a statement of abstract or factual knowledge to an element of knowledge that synthesizes it. It is, therefore, a simplification tool that bridges the gap between a textual statement and its conceptual synthesis. As part of our work of modeling the General Comments, it was used to include all of the statements contained in the texts studied.

Figure 4 provides an overview of the way that the application relationship works. The concept map created from the concept of physical acceptability of the right to education illustrates that the *statement* on the right-hand side “[. . .] or via modern technologies (e.g. access to a distance learning programme)” applies to the *example* of “distance learning,” which, for its part, applies to the *concept* of “use of modern technologies.”

- The regulation relationship[®]

This connection is used from a principle toward a concept, procedure, or another principle. The principle defines the concept through requirements

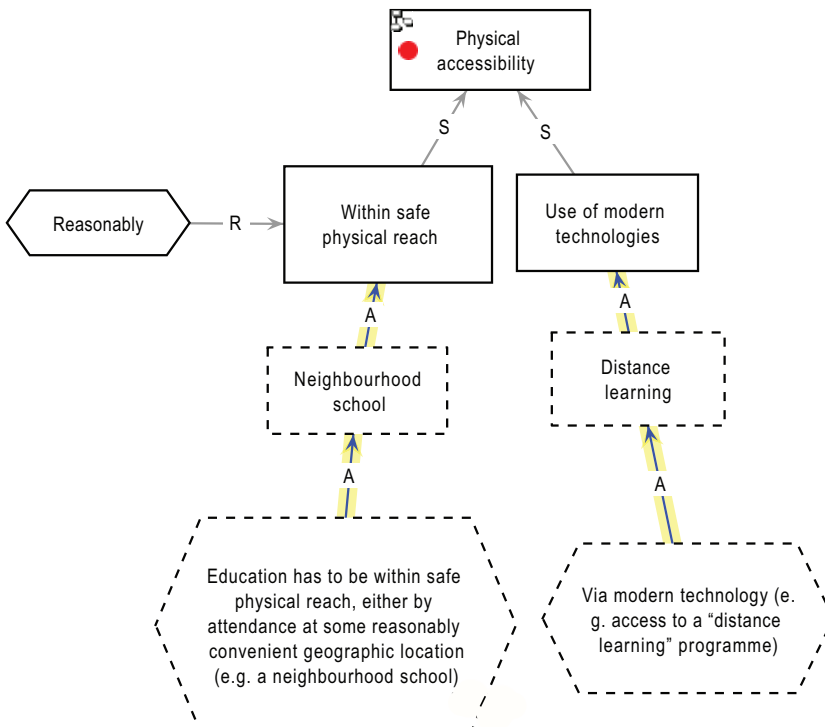


FIGURE 4 Article 13: (ICESCR): Concept of *physical accessibility* of the right to education.

that need to be met. In other cases, the connection of regulation means that the principle governs the execution of a procedure from the outside.

Figure 5 illustrates the regulation relationship. We note that “nondiscrimination” and “Equality” govern the “States parties’ obligations” regarding the right to take part in cultural life (Article 15 1 (a) of the ICESCR, General Comment No. 21).

Modeling: Process and Steps

Using MOT graphical language, the internal logic used in interpreting a right can be made visible by schematically and systematically structuring the content of each of the General Comments studied. This exercise involves a series of choices on the part of the modeling team:

1. Identification of the most important elements (which will be translated into the primary concepts)
2. Identification of the secondary elements (which will be presented in submodels)
3. Determination of the level of details that need to be included in the models in order to illustrate the complexity of the content
4. Identification of the categories (concept, principle, examples, etc.) to which each object included in the models relates
5. Identification of the types of relationships connecting the elements of the models.

This process of conceptual deconstruction occurs in four steps. The first step is the creation of the general architecture of the interpretation of the right. We identify the broad categories of the General Comment through a comprehensive review of the text structure. To facilitate a comparison between the General Comments, a certain degree of consistency in this general architecture is sought regarding the constitutive elements of the right, limitations, obligations of States, links with other rights, and so on. However, such consistency is not “mandatory” or “required.” If a comment does not contain any elements that justify including it in the table of one of these broad categories, it will not appear. When rights are analyzed and compared, such differences can immediately be seen, and can be very useful for rights analysis and comparison.

For example, the general architecture of the right covered in Article 15 1(a) —the right of everyone to take part in cultural life (see Figure 6) — comprises nine (9) broad conceptual categories. Basic principles (called

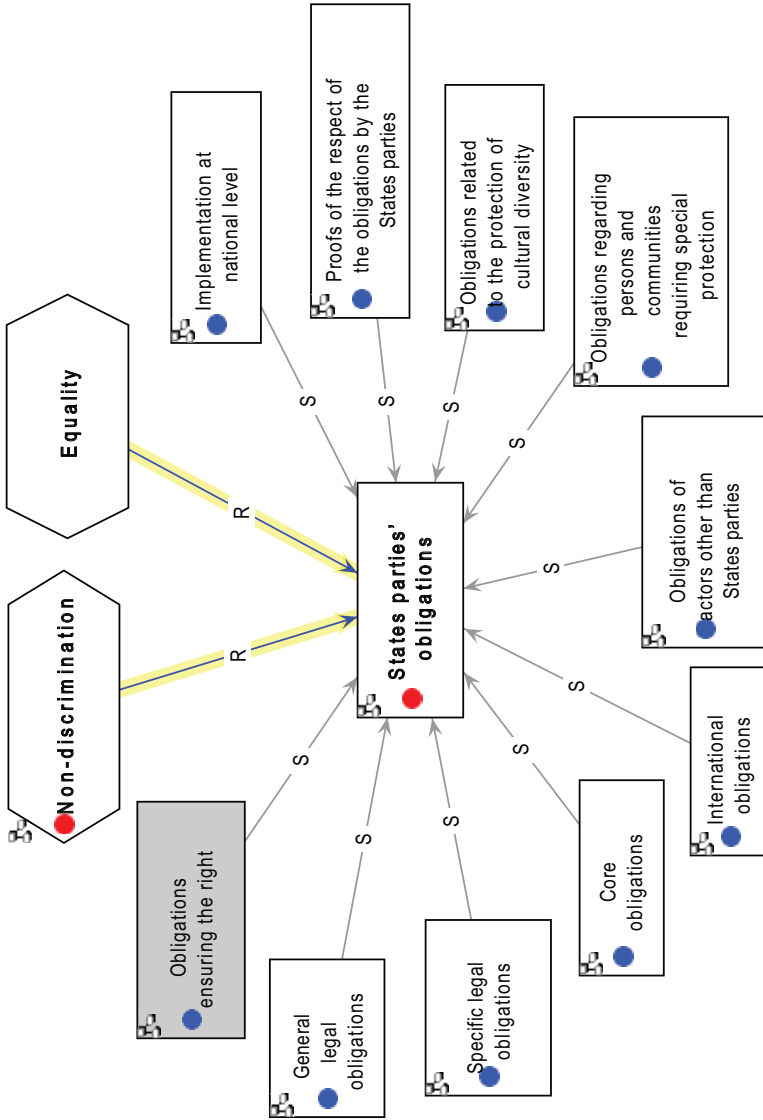


FIGURE 5 Article 15 I (a) (ICESCR): States parties' obligations regarding the right of everyone to take part in cultural life.

“special topics of broad application” in this graphical model, to follow the exact wording of the text of General Comment No. 21) govern the interpretation of this right: nondiscrimination and equal treatment.

Next we include the following categories: “components of the right”; “necessary conditions for the full realization of the right”; “limitations to the right”; “violations”; “States parties’ obligations”; “links with other rights”; “international instruments recognizing the right”; and finally, a category of keywords developed for each right studied.

In certain cases, abstract elements (concepts or principles) are grayed out, since summarizing (often by a category, a word, or an expression that respects the intent, but not the exact wording of the text) was carried out by the modeling team to facilitate understanding and regrouping of such elements. For instance, the expression “components of the right” does not appear in the text of the comment, but this category makes it possible to bring together all of the concepts and definitions put forward by the drafters of the General Comment to define this right.

The second step consisted in creating submodels from the broad categories that emerge from the general architecture of the interpretation of a right. Very often, this operation is facilitated by the organization of the text

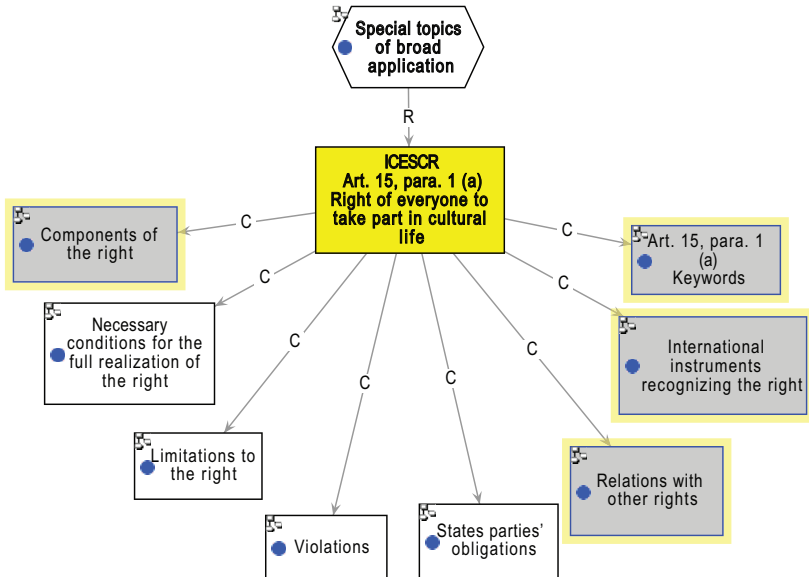


FIGURE 6 General architecture of the General Comment on the Right of Everyone to Take Part in Cultural Life (Article 15 1 (a) of the ICESCR, General Comment 21).

itself that proposes titles and subtitles chosen by the drafters of the General Comments.

The architecture of the submodel of States Parties' obligations regarding Article 15 1 (a) of the ICESCR (see Figure 5 again) highlights the detailed and well-developed arguments in General Comment No. 21. These include different categories of obligations (general legal obligations; specific legal obligations, core obligations, international obligations, and obligations guaranteeing the fulfilment of the right), but also specific obligations connected with individuals and groups; obligations of actors other than States parties; obligations regarding the protection of cultural diversity, and the implementation of all of these measures within the nations; and finally, obligations connected to the ICESCR Committee through proof of fulfilment by States parties of their obligations.

The third step consists in refining the submodels by creating additional top-down submodels (levels 2, 3, 4, and so on). These submodels will be created until the model is deemed satisfactory for properly illustrating the content of the comment studied. By way of example, Figure 7 illustrates a level-2 submodel (general legal obligations) of the States parties' obligations regarding the right of everyone to participate in cultural life. These obligations are described in six areas of action that must be accomplished by States parties under the ICESCR: (1) prove that a regressive measure is justified; (2) ensure respect for the freedom indispensable to scientific research and creative activity; (3) guarantee the exercise of the right without discrimination; (4) recognize cultural practices; (5) refrain from interfering in the enjoyment and development of cultural practices; and (6) take deliberate and concrete measures.

The modeling team ensured that the entire content of the particular General Comment studied⁴⁹ was integrated into the "stated" knowledge type by creating top-down submodels. In practical terms, every word, sentence, and statement from the text of the General Comment was integrated into the MOT knowledge model generated.

49. With the exception of the footnotes, which were not included in the graphical modeling process because they are not designed to define the nature of the rights protected by the committees and of the obligations to which they give rise. Essentially, the footnotes of the General Comments refer to other General Comments or to the work of other United Nations committees or treaty bodies (e.g., in this regard, it is necessary to refer to the recommendation of a particular committee; other examples of possible violations of article X can be found in a particular paragraph of a particular treaty).

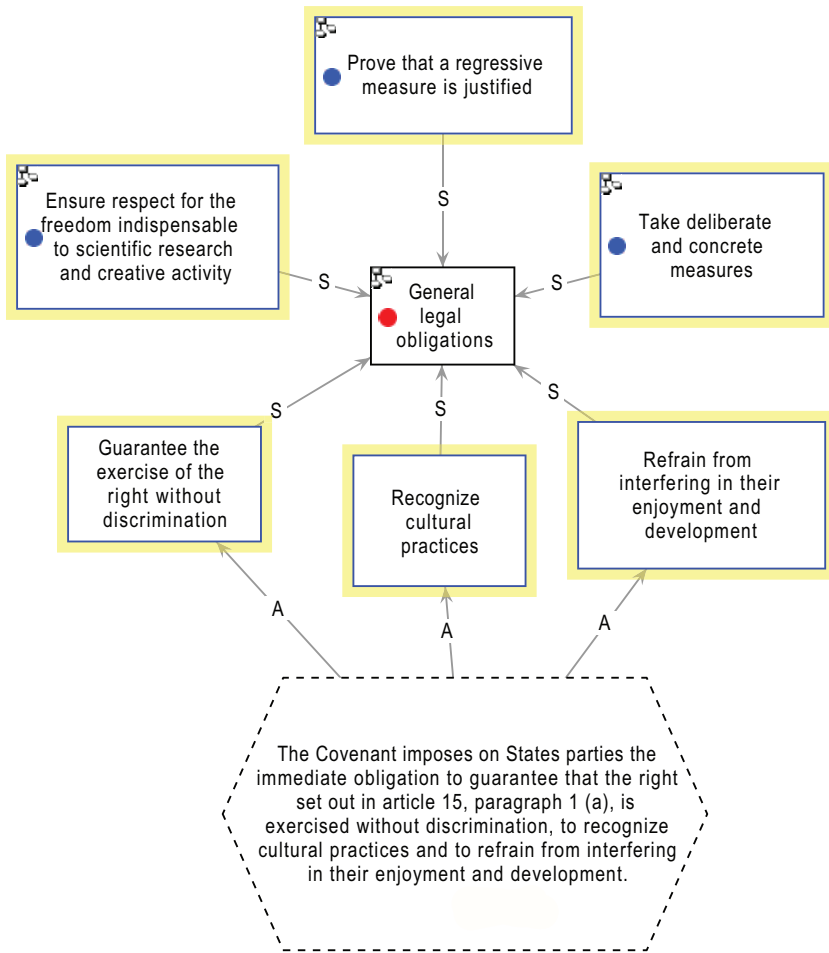


FIGURE 7 Article 15 I (a) (ICESCR): General legal obligations of States parties regarding the right of everyone to take part in cultural life.

The fourth and last step is a validation step. While the concept maps were generated in a process⁵⁰ led by two researchers who communicated on an ongoing basis⁵¹ and revised periodically by the project director, the complete versions of the maps were reviewed and discussed as a team for the preparation of the final version.

50. This process includes producing reports of the amendments made and documenting the approach used.

51. Basque and Pudelko.

Once these four steps have been completed, we are able to present the general architecture of the interpretation of these rights as defined in the General Comments. These include (a) identifying the constitutive dimensions of these rights and the limitations to them (b) describing the related concepts and States parties' obligations in detail (c) presenting the links with other rights recognized by the Covenants, and (d) proposing a list of keywords to summarize the main concepts used by the drafters of the General Comments. Once these elements have been established, the concept maps are the subject of four complementary analyses. First, they are subject to a language analysis focused on the study of the terms and verb tenses used. Verb analysis aims to indicate, in particular, the presence of constraints, obligations, or suggestions with respect to states. Second, the main concepts used in the general obligations are critically analyzed to determine the meaning given to them, as well as the dimensions, themes, and characteristics that are related or omitted. Third, the obligations toward States are the subject of a particular deepening in order to reveal the categories of obligations, the degree of their precision as well as the prescriptive or suggestive character of the language used. Fourth and finally, the general architecture of the concept map is closely examined so to identify the logical and structural organization of the General Comments, as well as the sections and subsections that have been worked on in detail, or only superficially addressed, by their drafters.

Key Outcomes of the Modeling of the General Comments

The graphical maps produced through MOT present three major contributions to the conceptualization of communication rights: they make it possible to structure knowledge in a schematic representation that facilitates understanding of what these rights involve; they make conceptual issues explicit; and they highlight the political interests integrated into the structure of the General Comments itself.

Schematic Representation

The use of MOT helps to develop a deeper understanding of the interpretation of complex rights by revealing their constitutive dimensions, States parties' obligations, limitations to the rights, and the links between these rights and other rights.

Constitutive Elements of Rights

The constitutive elements bring together the definitions adopted for each element in the wording of the Covenant right. How specifically they are “broken down” varies according to the content of the General Comments studied. However, the Committees have increasingly aimed, over the years, to establish clear guidelines on the concepts used.

In certain comments, such as the one concerning Article 18 on the right to freedom of thought, conscience, and religion, the interpretation goes into greatest detail in the submodels associated with the main constitutive elements (Figure 8). Thus, modeling reveals that while freedom of thought and freedom of conscience are defined “as negative liberties,”⁵² the right to freedom of religion or belief is exercised through several related freedoms, or rights, that range from the right not to profess any religion or belief to the freedom to teach a religion or belief in conformity with the convictions of parents or legal guardians.

The graphical modeling of the right to education shows that the CESCR identifies two specific subjects (here called “special topics of broad application”) that apply to all interpretations of this right: academic freedoms and the autonomy of educational institutions and school discipline.

In specifying what it means by academic freedoms (see Figure 9), the Committee presents well-developed arguments:

- On the people who should enjoy this freedom in the school system
- On the freedoms themselves (pursuing, developing, and transmitting) associated with knowledge and ideas
- On the means for acquiring these freedoms
- On the impossibility of enjoying the right to education without academic freedoms

Graphical modeling facilitates reading these arguments and makes it possible to develop an in-depth understanding of the concerns and choices of the CESCR in its general comment devoted to the right to education.

52. See General Comment No. 22 (Art. 18, page 2, paragraph 3): “In accordance with articles 18 (2) and 17, no one can be compelled to reveal his thoughts [. . .].”

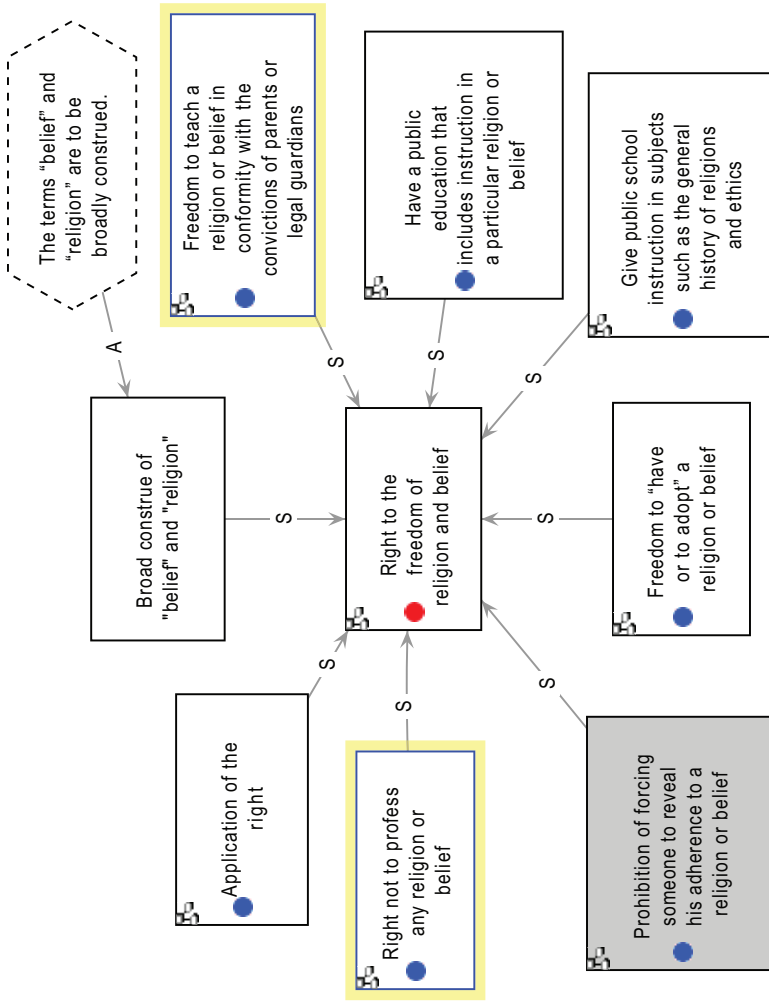


FIGURE 8 Constitutive elements of the right to freedom of religion or belief in Article 18 (ICCPR), the right to freedom of thought, conscience, and religion.

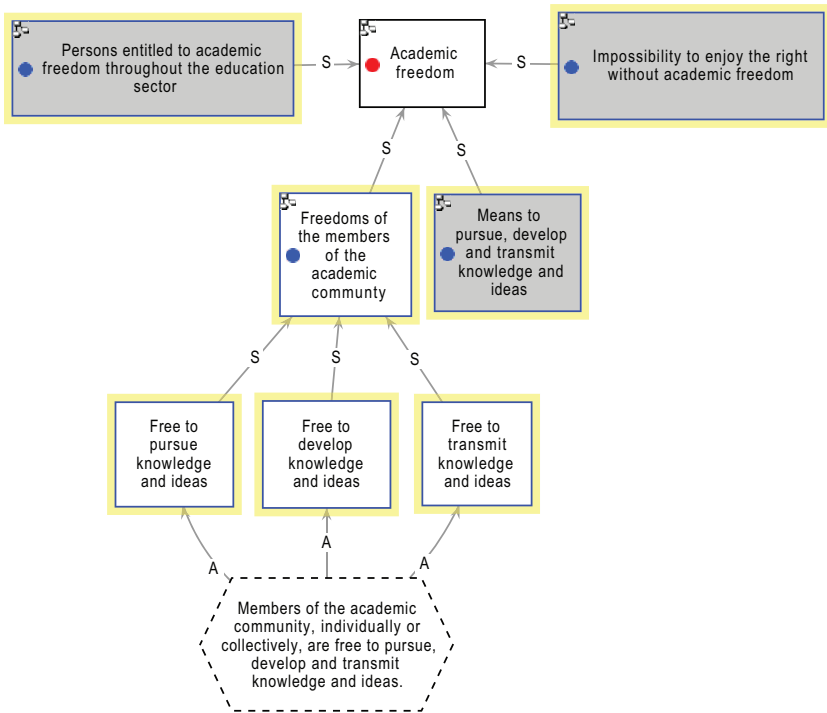


FIGURE 9 Article 13 (ICESCR): Concept of *academic freedoms* as a special topic of broad application of the right to education.

States Parties' Obligations

In addition to the obligations to protect, respect, and implement the right, which constitute the core of the commitment of States in signing a covenant, the Committees use the general comments to extend and define a broad scope of obligations with respect to the States.

The complexity of the levels of obligations is illustrated in the tree-diagram of obligations specifically identified as core obligations, general obligations, specific obligations, and international obligations. Occasionally, the Committees add principles governing the obligations presented.

Sometimes, but much more rarely, the Committees specify obligations for actors other than States parties. In the General Comment on the right to participate in cultural life (Article 15 1 (a)), the CESCR sets out obligations for members of civil society, communities, and cultural associations, as well as for organizations. The Committee goes as far as to identify individuals or groups needing special protection in the exercise

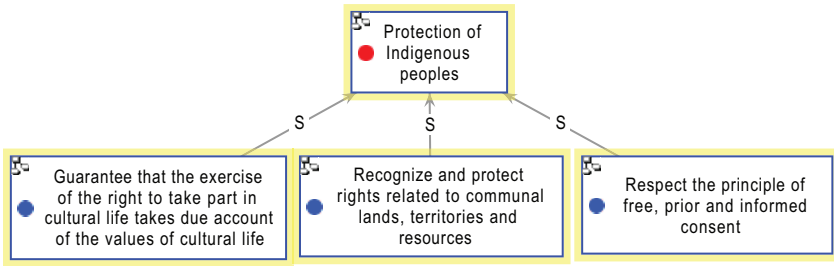


FIGURE 10 Article 15 I (a) (ICESCR): Obligations of protection with respect to Indigenous peoples.

of their right to participate in cultural life. Such obligations of protection with respect to these individuals and groups are then translated into specific ones attributed to States. Figure 10 is an example concerning the protection of the rights of Indigenous peoples. It guarantees the exercise of the right to take part in cultural life takes due account of the values of cultural life; recognizes and protects rights related to communal lands, territories, and resources; and respects the principle of free, prior, and informed consent.

Legitimate and Illegitimate Limitations to the Exercise of a Right

Still with the aim of guiding States parties in applying the Covenants, the Committees use the General Comments to identify legitimate and illegitimate limitations to the exercise of rights. Modeling makes it possible to distinguish two broad approaches⁵³ for identifying these limitations. The first group addresses the prerequisites to the imposition of limitations, while a second group specifies concrete restrictions, including legitimate and illegitimate limitations, demonstrated in the following two examples.

In the Comment on Article 15 I (a) on the right of everyone to participate in cultural life, the CESCR identifies the prerequisites to the imposition of limitations to the exercise of this right (Figure 11): they must be proportionate, compatible with the nature of the right, indispensable

53. Depending on the right, the Committees may present only one approach (e.g., right to participate to cultural life (approach 1); freedom of opinion (approach 2)), or it may present both approaches at the same time (e.g., freedom of expression).

to democracy, and must pursue a legitimate aim. The Committee specifies the means that enable, in conformity with the obligations under the Covenant, restricting the exercise of protected rights in an acceptable manner. The Committee also adds that certain circumstances may left limiting the exercise of the right of everyone to take part in cultural life. By adopting limitations, States will, therefore, also have to show that they meet these criteria.

In the comment on the freedom of opinion and expression (Article 19), the Committee instead identifies actions to be prohibited in the case of illegitimate restrictions on the freedom of opinion: making it a criminal offense to hold an opinion; engaging in attacks on individuals; attempting to use coercion; proclaiming a state of emergency; and impairing the rights that a person holds under the Covenant because of their opinions.

Relationships with Other Covenant Rights

The use of MOT also makes it possible to quickly identify and display the links between the various rights, and to effectively summarize the rhetoric put forward by the Committees to left these interrelationships.

It should be noted that the monitoring committees for the Covenants did not create a section entitled “links with other rights” in their General Comments, as they did for sections such as the “obligations” or “restrictions.”⁵⁴ The arguments used to link the interrelationships of the article defined in a General Comment with other rights are thus often scattered in different sections of the comment.

The number of links that a right has with other rights—proclaimed in both Covenants—varies from one General Comment to another. General Comment No. 16 (1988) on Article 17 on the right to privacy has no links with other rights promoted by the Covenants.

In contrast, in General Comment No. 21 (2009) on the Right to Take Part in Cultural Life (Figure 12), the CESCR identifies five articles of the ICCPR (Articles 17, 18, 19, 21, and 22) and nine links with articles (Figure 13) of the ICESCR (1, 3, 11, 12, 13, 14, and 15).

54. Even when the text of the General Comments does not include sections, the drafters do not refer specifically to “links with other rights.” However, they do explicitly name the “obligations,” “restrictions,” and other broad categories.

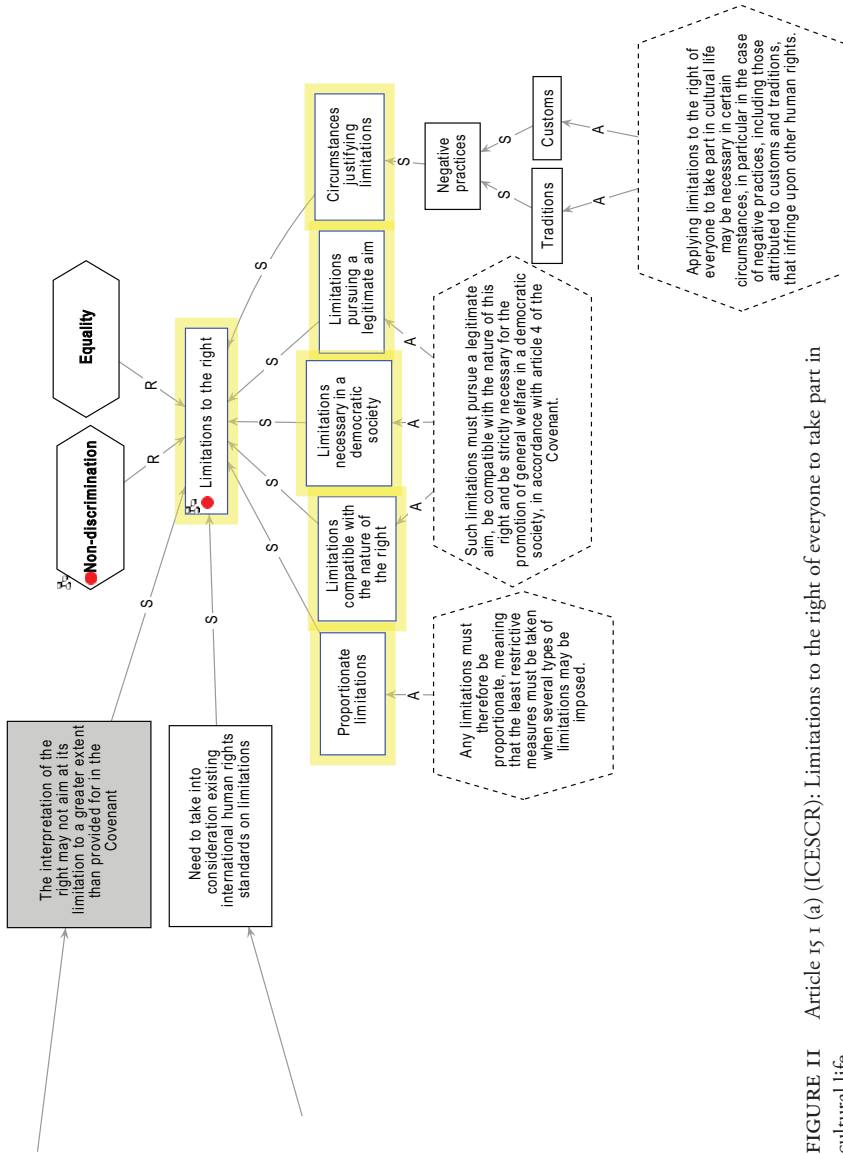


FIGURE II Article 15 1 (a) (ICESCR): Limitations to the right of everyone to take part in

cultural life.

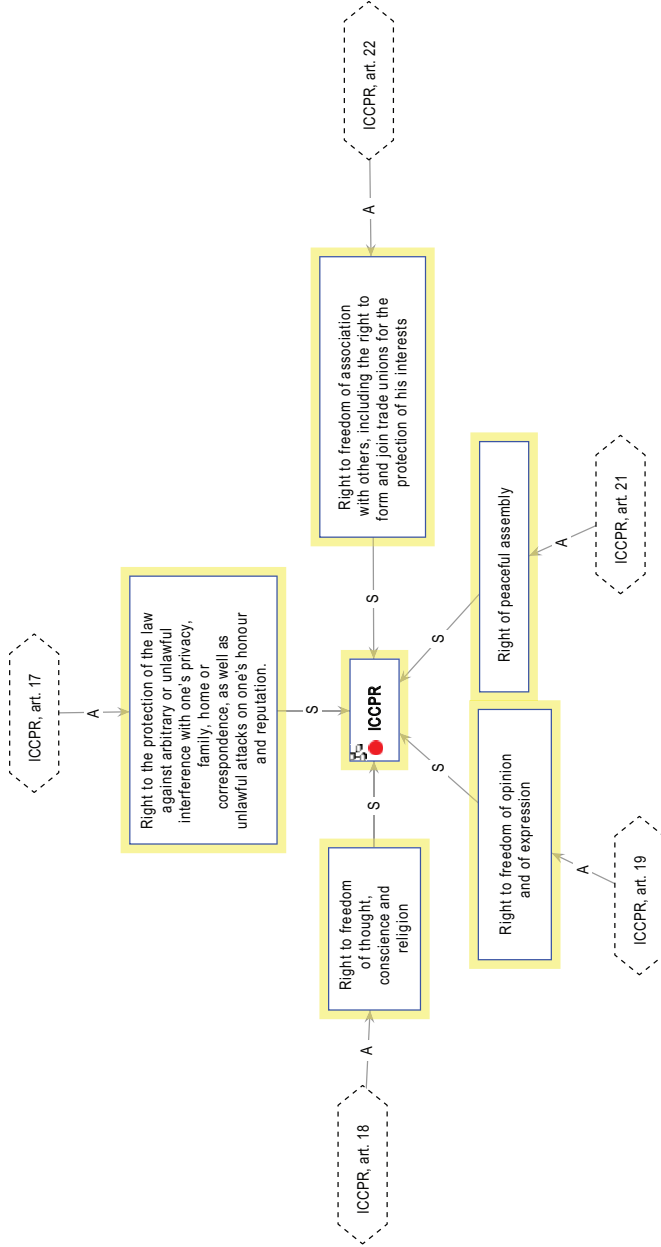


FIGURE 12 Article 15 I (a) (ICESCR): Links of the right of everyone to take part in cultural life with other rights of the ICCPR.

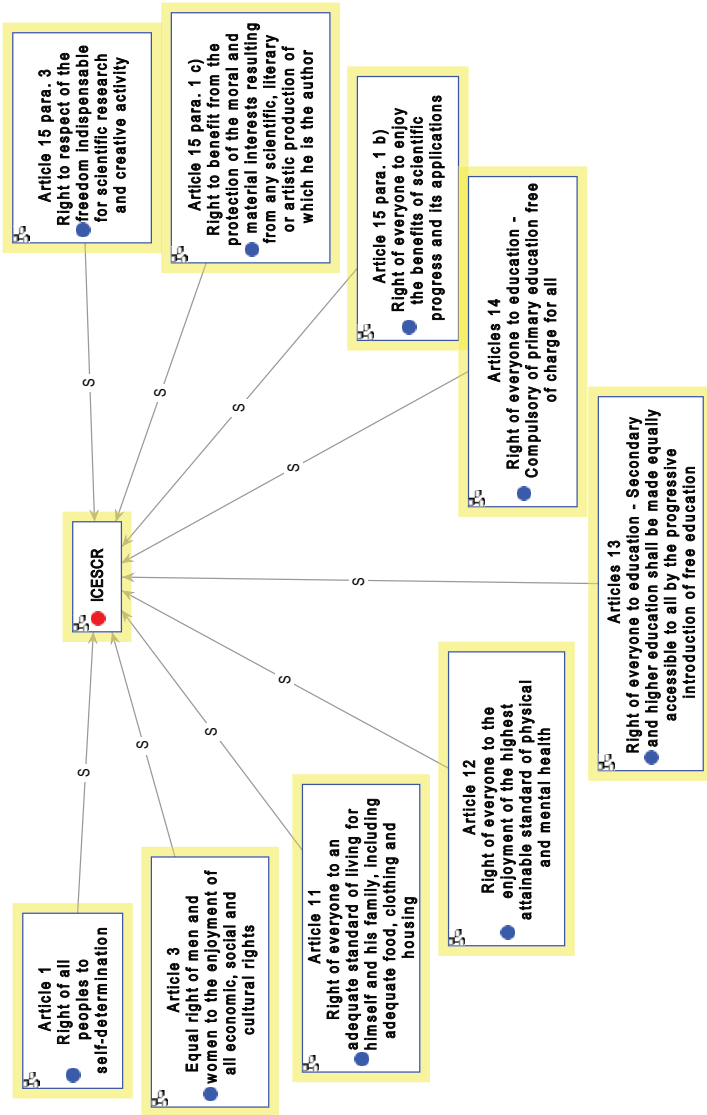


FIGURE I3 Article 15 1 (a) (ICESCR): Links of the right of everyone to take part in cultural life with other rights of the ICESCR.

Keywords

For each comment studied, we created a constellation of keywords associated with the right studied. The main objective in doing so was to establish an initial overview of the lexical field used in connection with the interpretation of this right. Thus, an analysis of the semantic content of the comment devoted to Article 15 1 (a)—on the right to take part in cultural life (Figure 14)—makes it possible to create a tree-diagram that reviews the main themes covered in greater detail in the text.

Critical analysis of the General Comments

A small community of researchers produces critical analyses of the General Comments.⁵⁵ These international law specialists are still largely discon-

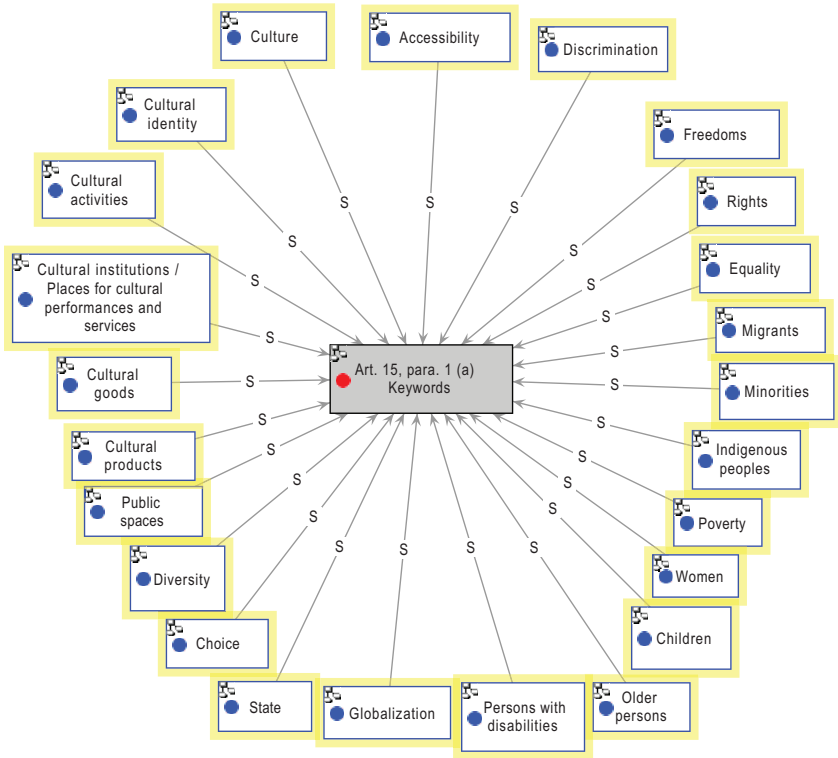


FIGURE 14 Article 15 1 (a) (ICESCR): Keywords of the right of everyone to take part in cultural life.

55. Neuman; Moeckli. Abline.

nected from communication rights researchers. Their work, in particular, emphasizes that the process of elaborating the General Comments is political in nature.⁵⁶ Adopted by consensus, the General Comments are intended to be the result of intricate negotiations between the members of the Committees (both of which are composed of 18 independent experts) and the actors (States parties, academics, NGOs), with the possibility of providing written feedback on the first version of a comment. While consideration is given to all of the opinions issued, the Committees would give precedence to the States parties, which favor using nonmandatory and ill-defined terminology in the process of drafting or redrafting official texts.⁵⁷ The constant use of verbs such as “suggest, invite, recommend” rather than “require or mandate,” the use of the conditional (the States “should”) rather than the present indicative, and the conceptual weakness or lack of a definition around the key concepts⁵⁸ related to rights enshrined in the Covenants are convincing examples of this. In Moeckli’s view, the General Comments were clearly abandoned “to the chaos of self-serving interpretations by each indifferent or complacent State.”⁵⁹ They, no doubt, include changes compared to the original nature of the Covenant articles, but these must never be perceived as major upheavals, lest the States are deterred.⁶⁰ The General Comments must instead be analyzed further as invitations to observe a particular behavior, rather than as actual edicts. The political interests integrated into these official interpretations of the Covenants thus call for deconstructing their content to reveal the ambiguous discourses that they contain and to highlight the scope and limitations of these normative guidelines in the conceptualization of human rights, and in the specific case of interest to us, communication rights.

The graphical modeling of the General Comments through MOT reveals a set of conceptual instruments that is sometimes richly defined, and other times not well described, by the committees, thus pointing out weaknesses in the conceptual framework due to polysemic concepts that have not been defined and are, therefore, difficult to make operational.

56. Keller and Grover.

57. Moeckli, 35.

58. By way of example, in its General Comment 16 (Right to Privacy), the CCPR indicates that “every person is required to be protected against arbitrary or unlawful interference with his privacy,” but does not clarify in what way this constitutes an interference, and nor does it define the concept of privacy. See the Human Rights Committee, General Comment 16 (1988), 1: <https://bit.ly/2UoGjG3>.

59. Moeckli.

60. Wheatley.

The definitions of *culture* and *cultural diversity* in General Comment No. 21 (Article 15 1 (a) of the ICESCR—the Right to take part in cultural life) are eloquent examples of this. Both are components inherent to cultural life, with culture being interpreted in detail by the CESCR, while cultural diversity is not defined.

In the following concept maps, *culture* is interpreted both as the “creation and product of a society,” the “reflection of values and humanity,” a “process that is historical, dynamic and evolving,” and as “cultural goods.” The CESCR even includes other definitions of culture in its Comment that come from different declarations or treaties in order to promote the many elements inherent to the concept of culture. Conversely, *cultural diversity* is not defined as such. The Committee puts greater emphasis on what the *defense of cultural diversity* represents, namely, an “ethical imperative, inseparable from respect for human dignity,” which involves the “respect of human rights,” the “respect of fundamental freedoms,” and the “fulfilment of cultural rights.”

The modeling work carried out helped to reveal other ambiguities. In the case of General Comment No. 16, Article 17 (ICCPR) on the right to privacy, our work of graphical conceptualization helped to identify that the concept of privacy itself is not defined. Moreover, we also noted that the CCPR considers that “the protection of privacy is necessarily relative,” as indicated in the principle governing the concept of privacy, without further explaining how far this protection extends and in what cases it must be absolute.

The case of Comment No. 21 (2009) on the right to take part in cultural life illustrates eloquently the work of conceptualization carried out, at various levels of complexity, by the drafters of the General Comments. The Committee starts by separating each of the terms in the wording of Article 15 1 (a) of the ICESCR: everyone, the right to participate, cultural life (Figure 15). In addition, it specifically mentions the decision of whether or not to exercise this right. Note that this possibility of choosing whether or not to exercise the right constitutes an exception with regard to the other rights studied in the context of this modeling work.

Thus, for “Everyone,” the Committee notes that this term refers both to individuals and groups. The right to participate (or to take part) is more complex and is divided into three interdependent components (Figure 16): **participation, access, and contribution to cultural life.**

The modeling of these three components reveals a conceptual feature proposed by the drafters of the General Comment: participation is defined as the exercise of rights, including the right to choose his or her

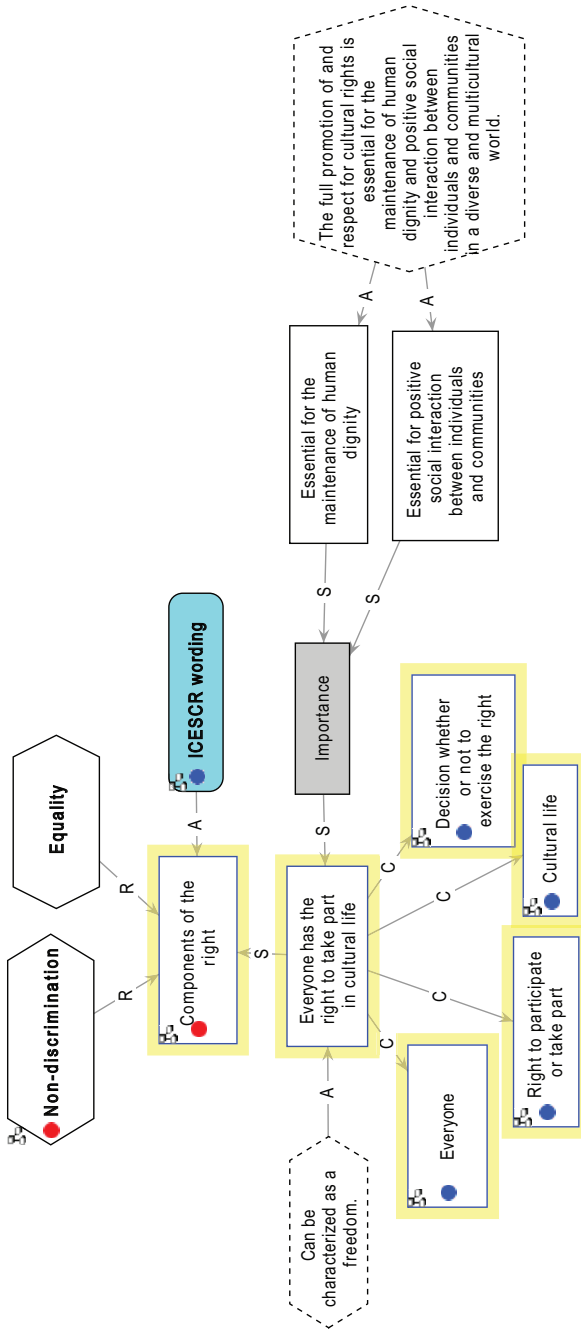


FIGURE 15 Article 15 I (a) (ICESCR): Components of the right of everyone to participate in cultural life.

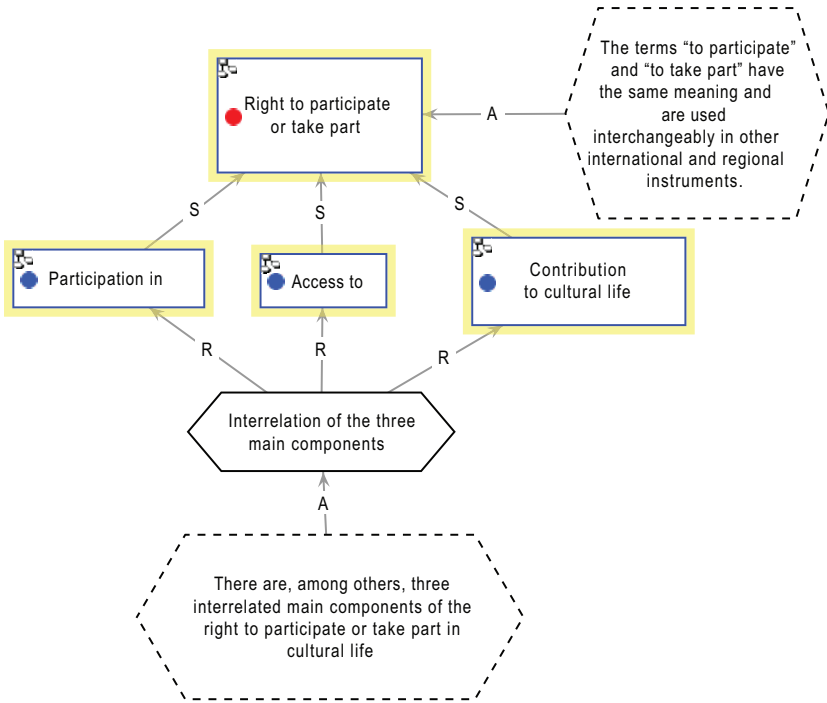


FIGURE 16 Article 15 1 (a) (ICESCR): Components of the *right to participate* (or take part) in the right of everyone to participate in cultural life.

own identity; the right to take part in the political life of society; the right to engage in one’s own cultural practices, and the right to express oneself in the language of one’s choice.

However, access (Figure 17) and contribution to cultural life are defined in terms of the exercise of identified and defined rights, including the right to know and understand his or her own culture and that of others, and the right to learn about forms of expression and dissemination. The Committee goes even further by identifying ways to support the exercise of these rights through education, information, means of communication, and the use of cultural assets.

The Committee affirms that other rights are connected to the right to participate in cultural life—whether they directly precede or arise from it.

Thus, “participation” is defined in terms of *freedoms* and “access” is defined in terms of *rights*. As indicated by Favoreu⁶¹ (2015), the concepts of rights and freedoms can, according to their modes of action, be associated

61. Favoreu.

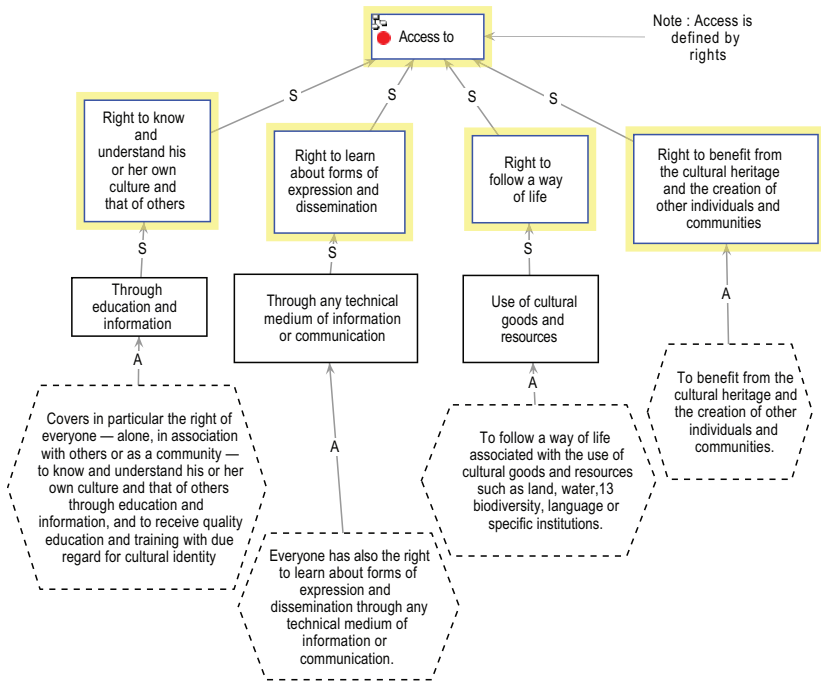


FIGURE 17 Article 15 1 (a) (ICESCR): Concept of *access* as a component of the right to participate in the right of everyone to participate in cultural life.

or disassociated concepts: associated concepts when States are faced with negative obligations that require them to refrain from acting, and disassociated concepts when there is a positive obligation for States to carry out a service (in which case, “rights” will be used). This is why the CESCR speaks of rights regarding “access” to cultural life, as this access entails positive obligations for States, and freedoms—although it could also speak of rights—regarding “participation” in cultural life, which involves negative obligations.

In Comment No. 34 (2011) on the freedom of opinion and expression, the Committee proposes to the States—as the verbs used in the text are in the conditional—different actions to be taken for establishing a legal framework on defamation that is compatible with the right to freedom of opinion and expression (Figure 18); for example, this framework will recognize public interest as a defense, will try a person charged with defamation as expeditiously as possible, or will place reasonable limits on the requirement to reimburse legal costs.

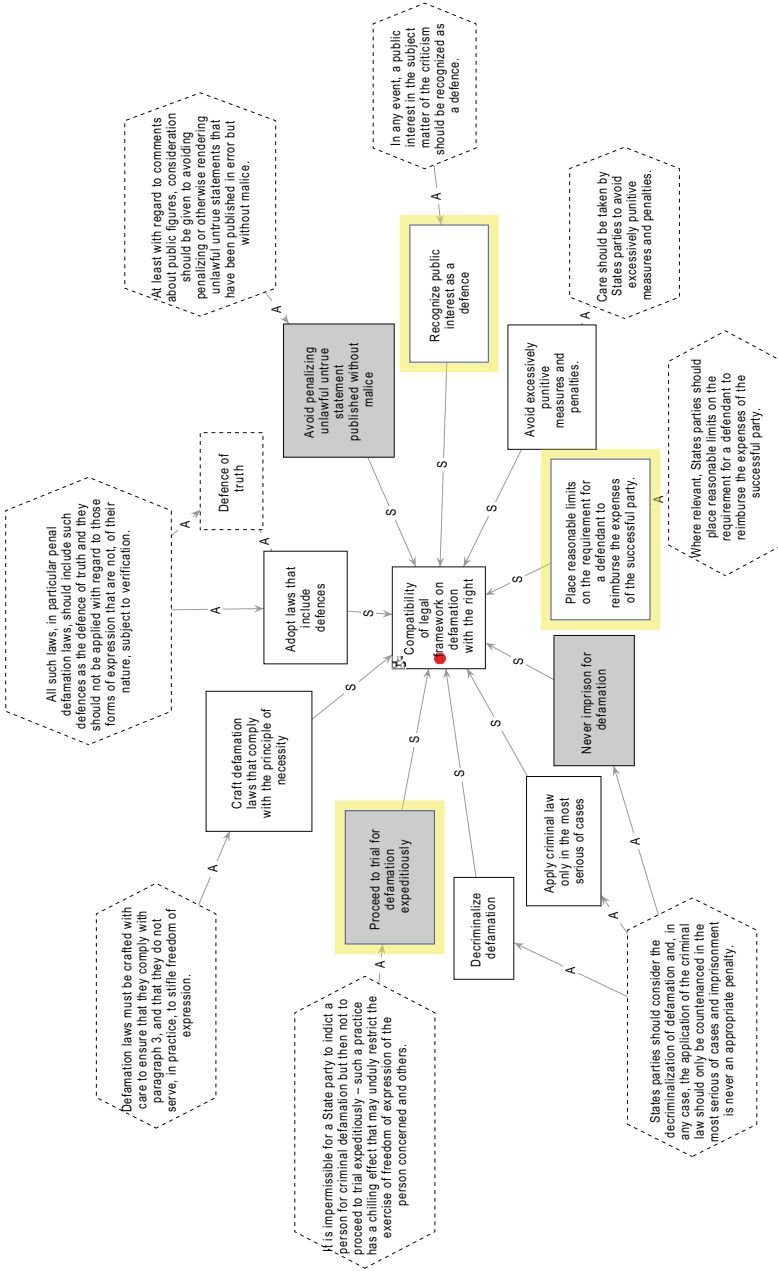


FIGURE 18 Article 19 (ICCPR): Concept of a legal framework on defamation compatible with the right to freedom of opinion and expression.

Political Interests Integrated into the General Comments

Another contribution of analysis using graphical modeling is to corroborate what Neuman,⁶² O’Flaherty,⁶³ and Abline⁶⁴ raised concerning the non-binding terminology frequently used by the Committees in the sections of the General Comments pertaining to States parties’ obligations.⁶⁵ Thus, in the General Comments that were deconstructed using MOT, while the language used for the obligations is sometimes coercive, it is not binding most of the time.

The terminology used (“suggest,” “invite,” “recommend”) as well as the use of the conditional tense shows that the General Comments must be analyzed as invitations to conform to a particular behavior.⁶⁶ The Committees have no other choice than to rely on the good faith of the States parties with respect to the Covenants.⁶⁷

The earlier example, concerning obligations of the right to take part in cultural life (Figure 19) is among the rare cases where the words chosen by the CESCR—“must show,” “requires,” and “are required” —are binding:

These binding action verbs represent, however, a small percentage of the verbs used by the Committees. In fact, the modeling work reveals the frequent use of nonbinding verbs such as “invite, recommend, encourage” in the obligations imposed on States parties. The conjugation of verbs in the present conditional is also indicative of nonbinding terminology favored by the Committees (Figure 20). “The States parties should” is an expression that recurs regularly in the General Comments, particularly in the obligations of the right to participate in public affairs and the right to education.

Thus, the obligations of States parties may be understood more as guidance, or as an invitation to follow a particular behavior, rather than as

62. Neuman.

63. O’Flaherty.

64. Abline.

65. This is due, among other things, to the nature of the General Comments, which constitute guidelines for the States.

66. Despite this observation, certain expressions used, such as “the States parties must show” (General Comment 21—Right to Take Part in Cultural Life ICESCR) or “conformity with article 17 requires States parties” (General Comment 17—Right to Privacy ICCPR), may give the impression that these are binding statements.

67. Besson.

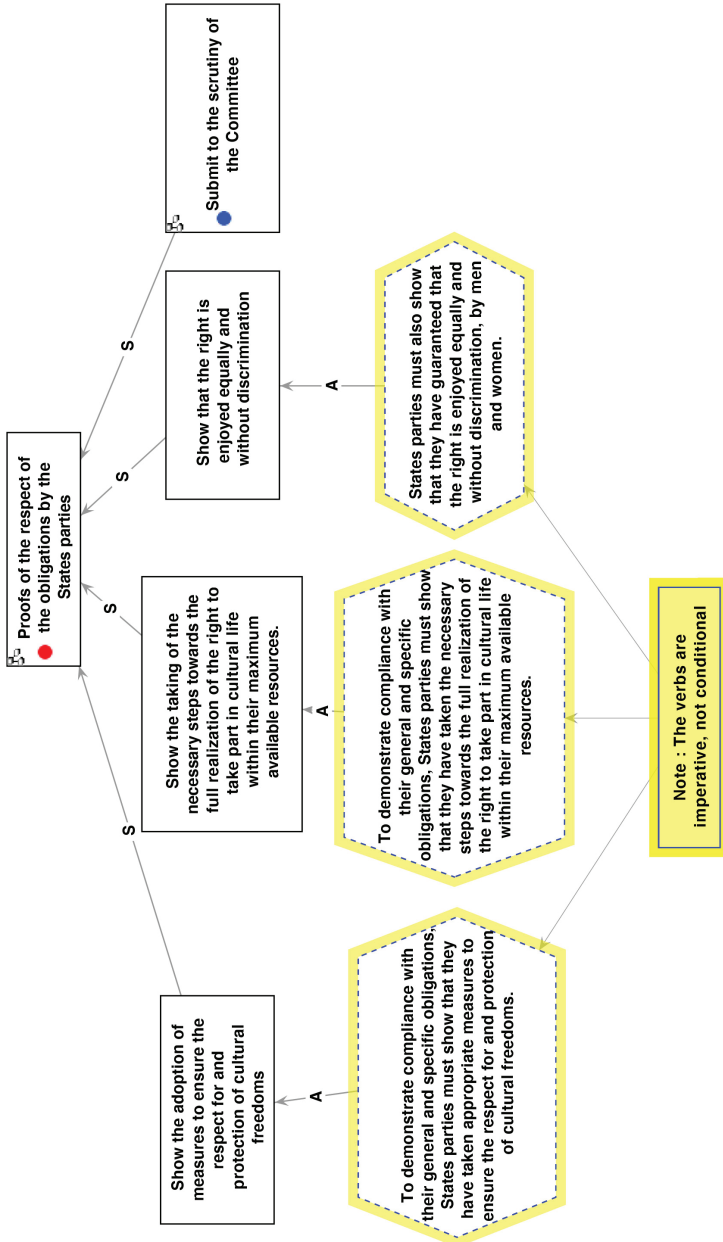


FIGURE 19 Article 15.1 (a) (ICESCR): Terminology of the *proof of fulfillment* of the obligations imposed on States parties regarding the right to participate in the right of everyone to participate in cultural life: “The States parties must show [. . .]”.

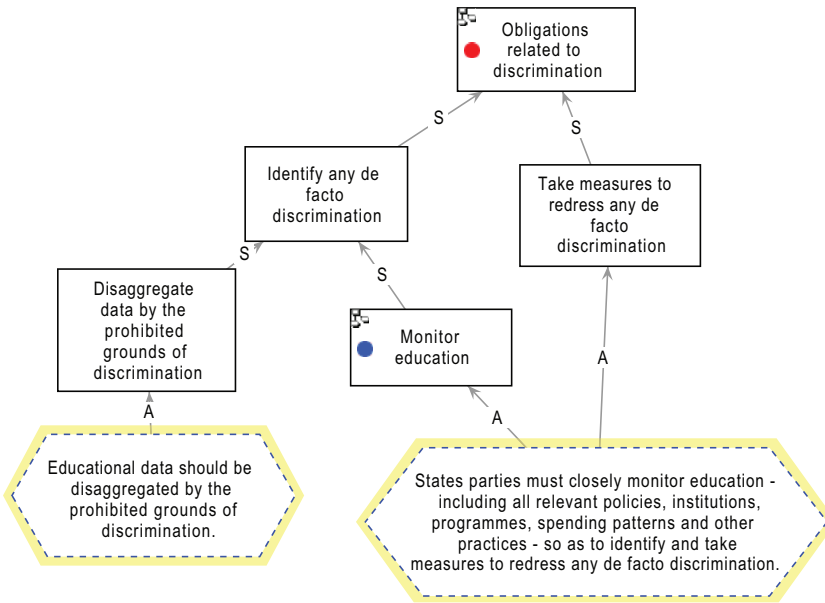


FIGURE 20 Article 13 (ICESCR): Terminology of obligations related to discrimination: the statement on the left-hand side emphasizes that “educational data should be disaggregated by the prohibited grounds of discrimination [. . .],” whereas the statement on the right-hand side indicates that “States parties must closely monitor education - so as to identify and take measures to redress any de facto discrimination.”

requirements that are imposed on them. As Moeckli,⁶⁸ Neuman,⁶⁹ and Abline⁷⁰ have pointed out before us, the terms used indicate that intricate negotiations likely took place between States during the process of elaborating the Comments; among other things, the choice of a verb in the conditional would informally authorize a country that ratified the Covenants to circumvent the obligation in question.

Besides the increased use of nonbinding terms in the obligations, other wordings used allow States to interpret and, in some cases, to depart from the guidance or prescribed rules. We offer two examples to illustrate this position: the use of the terms “to the extent possible” and the expression “in principle,” which may be interpreted also as nuanced, and even intentionally vague, in applying the rules put forward. The concept maps of the right to participate in cultural life (Figure 21) reflect this.

68. Moeckli.

69. Neuman.

70. Abline.

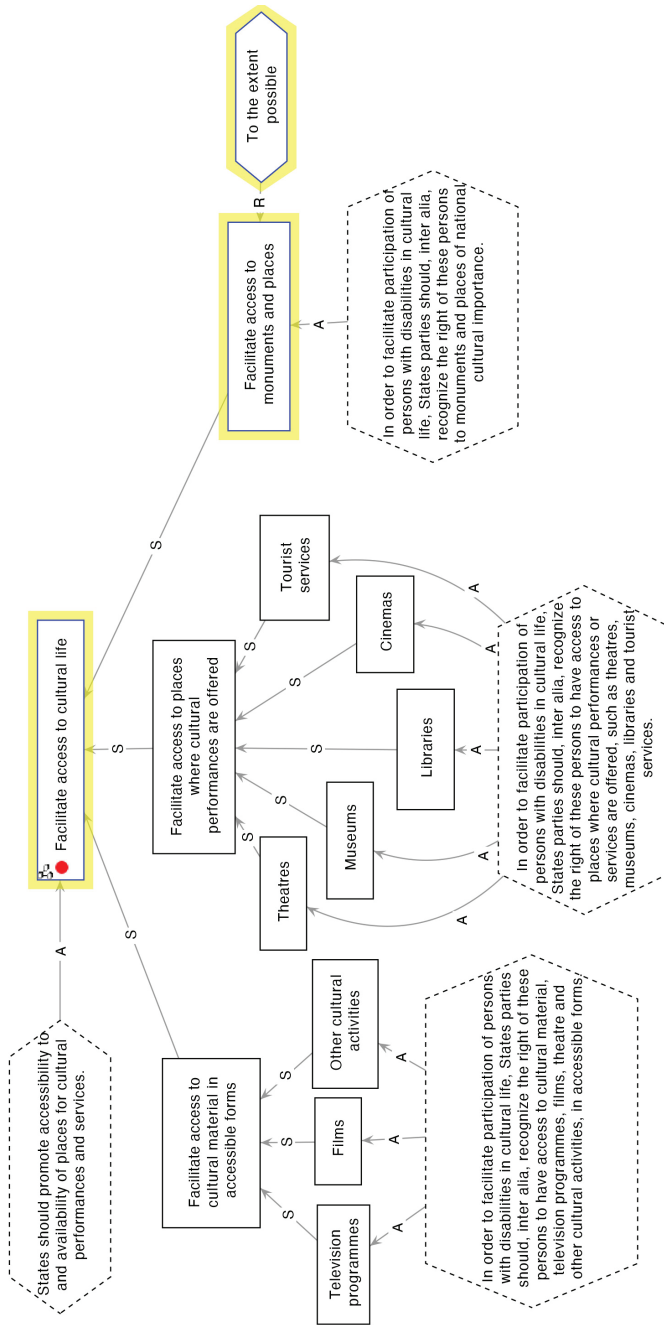


FIGURE 21 Article 15 1 a) (ICESCR): Terminology of the obligation to facilitate access of persons with disabilities to cultural life: “[...] to the extent possible, the States parties should facilitate access of persons with disabilities to monuments and sites that are important for national culture.”

The preceding analyses highlight the conceptual architectures, constitutive dimensions, and obligations associated with a corpus of human rights closely connected to communication. These analyses concern particular interpretations of these rights: they deal with General Comments, which are the only authorized interpretations of the ICCPR and the ICESCR,⁷¹ and present their flaws, limitations, and inconsistencies. In this regard, this article presents a contribution to the field of research in international human rights law⁷² while advocating for the creation of more robust connections between the communities of researchers in international human rights law and those in social sciences. The discussion that follows presents a proposed general framework to accomplish this.

Reconceptualizing Communication Rights: The Role of Legal Analysis

We have argued earlier that the literature examining communication rights proposes an approach to such rights that is essentially conceptual. The rights encompassed by this concept are treated using the approach favored by Freeman,⁷³ considering them as concepts that allow for articulating abstract ideas and giving legitimacy to the claims made against States.⁷⁴

However, the human rights grouped under the concept of “communication rights” also constitute *standards* of a legal nature integrated into international human rights law.⁷⁵ Such standards entail responsibilities, obligations, and requirements for States; they claim to participate in processes to regulate the actions taken by States with respect to their populations.

Considered as *legal standards*, communication rights are eminently political in nature. They aim to prescribe and to prohibit specific actions

71. Ibid.

72. Neuman; Moeckli.

73. Freeman.

74. By way of example, the concept of “right to privacy” makes it possible to group together and articulate the concepts of anonymity, surveillance, intimacy, and personal information (see Landry, “Médias, Technologies et Droits Humains”), associated with the principles of dignity, autonomy, and human freedoms. The “right to privacy” is consequently a concept—a representation of an abstract idea—on which hinge demands made to public authorities for them to undertake specific actions in order to protect its essence, while refraining from infringing its boundaries themselves.

75. Hamelink.

taken by public authorities, in connection with sociopolitical issues in communication, and on the basis of moral principles presented internationally as being universal.⁷⁶ These standards codify in international law expectations with respect to States and establish procedures for evaluating and monitoring the actions taken by States in order to comply with these expectations.

Such an approach necessarily leads to in-depth examinations of the quality of international legal standards in communication rights, as well as of the logic and interests that contributed to the elaboration of these standards.

Quality of Legal Standards

The quality of legal standards associated with communication rights depends, first, on their degree of conceptual clarity. Our research shows that the General Comments have varying degrees of conceptual clarity. It seems that there is no consistent approach to the definition of key terms. The Committees sometimes try to define certain terms very precisely and sometimes avoid doing so. This results in highly variable normative standards of precision, clarity, and applicability. For example, while General Comment No. 21 (2009) on the right to participate in cultural life endeavors to present in detail the meaning given to the “right to participate in cultural life” —in particular regarding the concepts of “participation” and “cultural life” —, General Comment No. 16 on the right to respect for private life (1988) does not define the concept of private life itself. The object itself that is the focus of the standards established by this General Comment remains rather vague and poorly defined. The standards are consequently subject to conflicting interpretations and continue to be of little use for resolving complex conflicts. Similarly, while General Comment No. 34 (2011) on the freedoms of opinion and expression specifies that the only two acceptable reasons for restricting freedom of expression are the “respect of the rights or reputation of others” and “the protection of national security or public order, or public health and morals”, this Comment does not clarify what is understood by “protection,” “public safety,” “public order,” “public health,” and “morals.” This allows States to provide their own definition of the meaning to be given to these key concepts, and to determine when they can act in order to “protect” them.

76. Fellmeth; Moeckli, Shah, and Harris; Wheatley.

In fact, these grounds have been raised extensively by States in order to legitimize unacceptable limitations to freedom of expression.⁷⁷ In contrast, General Comment No. 17 (2005) endeavors to differentiate between the ontological foundations, characteristics, and purposes of intellectual property rights and human rights, thereby opposing the discourses brought by economic interests that seek to extinguish the concept of intellectual property rights with the right to protection of moral and material interests of authors.⁷⁸ Here, we see that conceptual clarity has profound political and legal consequences.

Second, the quality of the legal standards is subject to their ability to cover all facets of the rights to which they relate. Thus, General Comment No. 34 (2011) on the freedoms of opinion and expression fails to present and raise the complex relationships of tension and complementarity that exist between the freedom of expression and privacy as an issue.⁷⁹ It does not, therefore, allow for agreement on the role played by the protection of the right to privacy in preserving freedom of expression, or to determine when, and based on which criteria, a claim to the right to exercise freedom of expression can legitimately interfere with the right to privacy. The quality of the legal standards also depends on their evolving nature; they must establish guidelines, tools that make it possible to guide actors faced with new or unusual situations. The General Comments must, therefore, constitute up-to-date interpretations.

It should be noted that the Committees have the opportunity to rewrite the General Comments so as to “update their scope in the light of today’s conditions.”⁸⁰ These updates are also an opportunity to considerably clarify the contents of the General Comments in light of case law.⁸¹ The normative densification resulting from this rewriting work is particularly apparent in General Comment No. 34 (2011) on the right to freedom of expression and opinion, which is a major update of General Comment No. 10 (1983). The new text fits into a radically transformed legal, legislative, and technological context and raises issues of freedom of expression that did not exist before the emergence of digital technologies.

Some General Comments nevertheless remain obsolete. For example, General Comment No. 16 on the right to privacy has not been rewritten

77. Hallberg and Virkunnen.

78. Sinjela.

79. O’Flaherty.

80. Abline.

81. Mechlem.

in nearly 32 years, despite calls from experts for an urgent rewrite.⁸² The emergence and seriousness of widespread surveillance practices developed by states, commercial, and private actors over the last three decades contrasts with the lack of consistent work on privacy rights carried out within the Human Rights Committee. As a legal concept and norm, the right to privacy urgently needs to be reconceptualized at the international level. Our modeling work shows, in particular, the absence of any link between this right and digital technologies.

The research described in this article highlights significant conceptual deficiencies included as part of international human rights standards. These deficiencies undermine the applicability of these standards and their relative usefulness in the context of complex sociopolitical issues relating to communication.

Logic and Political Interests

International human rights standards are established on the basis of political negotiations whereby political interests are expressed in tensions, if not outright contradictions.

These interests are expressed at four distinct steps in the establishment of these standards. They are integrated into the processes of drafting international human rights texts; they are engaged in the interpretation processes of these standards, in particular when conflicts and controversies arise in connection with their violation; they influence the determination of the mechanisms for applying these standards and the monitoring of stakeholders' actions; and they provide structure for the enforcement and sanction mechanisms applied to ensure conformity with the established standards.⁸³ At each of these steps, the States parties involved in the processes of elaborating and implementing international human rights standards seek to influence these processes in a way that is favorable to them.

These interests are focused essentially on two issues: the degree to which States can be held accountable for their action or inaction, and are required to tolerate interferences in their internal affairs; and the deliberate instrumentalization of human rights bodies, mechanisms, and actors in order to

82. O'Flaherty.

83. Glendon; Morsink; Wheatley.

serve specific political objectives that frequently have little to do with the protection, respect, and fulfilment of human rights.⁸⁴

In the specific context of the drafting and adoption of the General Comments, our research identified a settling of political interests in the final texts around two discourse strategies. We note, first, the deliberate use of nonbinding language with respect to specific obligations imposed on States regarding the protection, respect, and implementation of human rights. Accordingly, the concept of “obligations” is reframed from the perspective of “recommendations,” thereby weakening the accountability of the States parties with regard to frequently central provisions of human rights standards. Second, the General Comments sometimes avoid defining politically charged concepts and contain ambiguities regarding the obligations that arise from them. Thus, the concepts of “moral interests” and “material interests” are never clearly defined in General Comment No. 17 (2005), which is nonetheless devoted to their protection. Similarly, the concepts of “national security” and “public order,” considered to be legitimate grounds for restricting the right to education, are not defined in General Comment No. 13. O’Flaherty⁸⁵ explains that the conceptual vagueness contained in the General Comments can reflect a desire to protect potentially restrictive and limiting interpretation standards, or to serve the interests of States that take advantage of their breadth of interpretation. In both cases, considerations that are essentially political influence the drafting processes of the General Comments.

Legal Standards as Objects of Struggle

The concept of “human rights” evokes simultaneously concepts and standards of a moral and legal nature. Human rights thus constitute “both a political philosophy and a set of standards of rules of law.”⁸⁶

When they are considered as concepts, human rights put forward abstract ideas that are closely linked to the principles of freedom, equality, and human dignity. These ideas are centered around demands (claims⁸⁷) relating to specific objects, considered indispensable to the realization of a life “of dignity, a life worthy of a human being.”⁸⁸ These ideas take root

84. Shawki and Cox; Goodhart; Evans.

85. O’Flaherty.

86. AFCNDH, 10.

87. Freeman.

88. Donnelly, 17.

in varied philosophical, cultural, and political traditions,⁸⁹ and they have relationships of support and tension between them.⁹⁰ They are the subject of continual debates and discussions, and reflect tensions that permeate societies and the relationships that they have.⁹¹

As legal standards, human rights impose sets of obligations, duties, and responsibilities on State, public, and private actors. A highly complex set of instruments, involving multiple levels and actors, is applied to developing these standards and establishing mechanisms for monitoring, surveillance, implementation, and sanctions.⁹²

The literature attests to the multiplicity of standard-setting bodies in human rights and divergent discourses on each of these elements.⁹³ At each level of governance, a broad spectrum of actors are involved in processes that are at times cooperative, and other times antagonistic, and that seek to clarify the intent and scope of human rights, as well as to define the resulting obligations, duties, and mechanisms for implementation and monitoring. Marked by dynamics of power and domination, these processes are reflected in an ability to impose standards with variable content that are often sufficiently polysemic to be interpreted in different ways.⁹⁴ In this context, it is appropriate to reflect upon standard-setting bodies in human rights—particularly those that benefit an authority deemed to be “legitimate,”⁹⁵—the actors involved, the mechanisms whereby these standards are produced, and the precise nature of the standards generated.

In other words, the use of a shared set of conceptual instruments regarding the concept of human rights conceals deeply divergent *conceptions* about the nature of such rights, their scope and limits, the obligations that accompany them, their place in the political organization of societies, the relationships that they have with other values and institutions—the family, tradition, religion, customs—, and conditions under which they can be legitimately suspended or limited.⁹⁶ With regard to these aspects, the legal standards applicable to human rights constitute full-fledged objects

89. Morsink.

90. Landry, *Droits et Enjeux de la Communication*.

91. Lacroix and Pranchière.

92. Jørgensen, “Human Rights and Communication Discourses.”

93. Donnelly and Whelan.

94. Fresia.

95. Brems.

96. Morsink.

of political struggle that mobilize actors from civil society, businesses, and private individuals, international institutions, and States.

The role of the General Comments fits into this framework. These documents have a legitimacy conferred by international law and institutional support from international organizations for the purpose of interpreting and defining, with a certain degree of authority,⁹⁷ the intent that needs to be ascribed to human rights and the resulting obligations for States. In other words, the General Comments aim to produce shared and detailed *conceptions* of human rights.⁹⁸ It is thus not at all surprising that they include political considerations and interests: they are intended to be imposed as normative guidelines in the field of international human rights law and to guide the actions of States in this area.

Conclusion

The notion of “communication rights” refers to legal norms in international law that are of particular importance for the democratic development of societies. The processes of defining and conceptualizing these rights, therefore, deserve to be critically analyzed.

By enabling the development of a fine and in-depth understanding of the argumentative logic of the General Comments, our work shows how graphical modeling serves as both an innovative method and an accessible tool for analyzing international standards, bringing together a corpus of human rights that play an essential role in the field of human communication.

The *graphical* representation of the United Nations official interpretations of communication rights with MOT, therefore, represents a significant methodological renewal, as it allows for the elaboration of conceptual maps that can highlight a range of elements: the constitutive and normative dimensions of communication rights; the conceptual architecture of these rights; the limits of these rights; the obligations of States and non-State actors; the relationships that exist between rights; and the lexical field associated with each right. These conceptual maps are thus powerful tools for critical analysis of international human rights standards.

97. Wheatley.

98. Schmidt; Abline; Cohen-Jonathan.

These maps also make it possible to appreciate the power embedded in the final wording of the General Comments. Supported by literature, our work shows that political interests run through the very structure of the General Comments. The analyses highlight the use of discursive strategies mobilizing imprecise, nondefined concepts, as well as nonbinding obligations, thus leaving room for interpretative flexibility for States.

Graphical representation emphasizes and makes the textual architectures of documents visually explicit. It presents the relationships between elements, the main categories of information, and systematically classifies and prioritizes content. As such, the final products of the modeling work carried out—concept maps—are powerful communication and popularization tools that can be appropriated by various actors in order to understand complex legal texts. They find an audience not only in academic and legal circles, but also in government and specialized agencies. They are useful analytical tools for third actors (including human rights groups) who monitor countries' actions in the area of human rights. In addition, these maps provide pedagogical support for teaching complex international human rights norms. The modeling work reported in this article has thus produced research results that fill gaps in the scientific literature, while generating tools that can be used for analytical, educational, and public communication purposes.

A Renewed Research Agenda

The findings of our work lead to two proposals to renew the field of communication rights studies.

First, the literature that mobilizes the concept of “communication rights” still neglects to study the processes, rules, and institutions that govern legal standard-setting in international human rights. As a result, studies on communication rights should focus more on the political jousting and analysis of power relationships that shape the development of legal standards. In this regard, our conclusions lead us to reconceptualize communication rights as objects of struggle that, in themselves, incorporate political interests. They are thus subject to a more robust critical deconstruction by the scientific community.

Second, communication rights studies are turning away from the critical analysis of international legal standards as they pertain to legal rights mobilized in the communication field. In fact, it is still rare for research being carried out to examine the ability of these standards to respond

adequately to sociopolitical issues in communication. Neuman⁹⁹ and Moeckli¹⁰⁰ recently showed that the interpretative work of the Committees is increasingly reflected in decisions handed down by national courts, but that these decisions are rarely transposed into public policy. In their view, a major awareness-raising effort on the justiciability of human rights is required to promote the implementation of the Covenants. Our work prefigures a research agenda oriented around the adequacy of national public policies on communication and their compatibility with international human rights standards.

These two avenues of research foreshadow more sustained collaborations between the communities of researchers in international human rights law and researchers in social sciences. Such collaborations have the potential to considerably enrich the field of communication rights studies.

BIBLIOGRAPHY

- Abline, Gaël. "Les Observations Générales, Une Technique d'Élargissement des Droits de l'Homme." *Revue Trimestrielle des Droits de l'Homme* 1, no. 74 (2008): 449–79.
- Alston, Philip. "The Historical Origins of the Concept of "General Comments" in Human Rights Law." In *The International Legal System in Quest of Equity and Universality: Liber Amicorum Georges Abi-Saab*, edited by Laurence Boisson de Chazournes and Vera Gowlland-Debbas, 763–76. The Hague: Martinus Nijhoff Publishers, 2001.
- Association francophone des commissions nationales de promotion et de protection des droits de l'Homme (AFCNDH). *L'Éducation aux Droits de l'Homme : Comprendre pour Agir Ensemble*. Paris: Sepia, 2009.
- Basque, Josianne, and Béatrice Pudelko. *La Modélisation des Connaissances à l'Aide d'un Outil Informatisé à des Fins de Transfert d'Expertise: Recension d'Écrits Notes de recherche no LICEF03NR02*. Montréal: Centre de recherche LICEF, Université TÉLUQ, 2004. <https://r-libre.teluq.ca/1684/>.
- Besson, Samantha. "The Influence of the Two Covenants on States Parties Across Regions: Lessons from the Role of Comparative Law and of Regions in International Human Rights Law." In *The Human Rights Covenants at 50: Their Past, Present, and Future*, edited by Daniel Moeckli, Helen Keller, and Corina Heri, 243–76. Oxford: Oxford University Press, 2018.
- Blake, Conway. "Normative Instruments in International Human Rights Law: Locating the General Comment." *NYU Centre for Human Rights and Global Justice Working Paper*, no. 17 (2008): 1–35. https://chrgj.org/wp-content/uploads/2020/02/WPS-NYU-CHRGJ-Blake_Final.pdf

99. Neuman.

100. Moeckli

- Brems, Eva. "Legal Pluralism as a Human Right and/or as a Human Rights Violation." In *Human Rights Encounter Legal Pluralism – Normative and Empirical Approaches*, edited by Giselle Corradi, Eva Brems, and Mark Goodale, 23–39. Oxford: Hart Publishing, 2017.
- Buchanan, Allen. *The Heart of Human Rights*. New York: Oxford University Press, 2014.
- Calabrese, Andrew. "Human Need as a Justification for Communication Rights." *The Communication Review* 20, no. 2 (2017): 98–121. <http://dx.doi.org/10.1080/10714421.2017.1304140>.
- Cammaerts, Bart, and Nico Carpentier. *Reclaiming the Media: Communication Rights and Democratic Media Roles*. Bristol: Intellect Books, 2007.
- Cohen-Jonathan, Gérard. "Conclusions – La protection des droits de l'homme par le Comité des droits de l'homme." In *Actes du Colloque de Montpellier, Institut de Droit Européen des Droits de l'Homme*. Montpellier: Institut de Droit Européen des Droits de l'Homme, 1995.
- CRIS (Communication Rights in the Information Society). "Manuel d'Évaluation des Droits de la Communication". http://centreforcommunicationrights.org/images/stories/database/tools/cris_manuel-d-evaluation.pdf.
- Dakroury, Aliaa. *Communication and Human Rights*. Dubuque: Kendall Hunt Pub, 2009.
- Dakroury, Aliaa, and J. Julia Hoffmann. "Communication as a Human Right: A Blind Spot in Communication Research?" *International Communication Gazette* 72, no. 4–5 (2010): 315–22. <https://doi.org/10.1177/1748048510363627>.
- Dakroury, Aliaa, Mahmoud Eid, and Yahya R. Kamalipour. *The Right to Communicate: Historical Hopes, Global Debates, and Future Premises*. Dubuque: Kendall Hunt Publishing Company, 2009.
- Donnelly, Jack. *Universal Human Rights in Theory and Practice* (version 3rd ed.). 3rd ed. Ithaca: Cornell University Press, 2013. Donnelly, Jack, and Daniel Whelan. *International Human Rights*. Boulder: Westview Press, 2017. Evans, Tony. *The Politics of Human Rights: A Global Perspective*. London: Pluto Press, 2005.
- Favoreu, Louis, ed. *Droit des libertés fondamentales*, Paris: Dalloz, 2015.
- Felczak, Micheal, Richard Smith, and Geoffrey Glass. "Communicating with (Some) Canadians: Communication Rights and Government Online in Canada." *Canadian Journal of Communication* 34, no. 3 (2009): 435–60. <https://www.cjc-online.ca/index.php/journal/article/viewFile/2020/2099>.
- Fellmeth, Aaron Xavier. *Paradigms of International Human Rights Law*. New York, NY: Oxford University Press, 2016.
- Fisher, Desmond. "The Right to Communicate: A Philosophical Framework for the Debate." In *Evolving Perspectives on the Right to Communicate*, edited by Leroy Stanley Harms, and Jim Richstad, 53–65. Honolulu: University of Hawaii Press, 1977.
- . *Le Droit à la Communication: Rapport sur l'État de la Question*. Paris: UNESCO, 1983.
- Freeman, Michael. *Human Rights: An Interdisciplinary Approach*. Cambridge: Polity Press, 2017.
- Fresia, Marion. "La fabrique des normes internationales sur la protection des réfugiés au sein du comité exécutif du HCR." *Critique Internationale* 54, no. 1 (2012): 39–60. <https://doi:10.3917/crii.054.0039>.
- Gerber, Paula, Joanna Kyriakakis and Katie O'Byrne. "General Comment 16 on State Obligations Regarding the Impact of the Business Sector on Children's Rights: What is its Standing, Meaning and Effects." *Melbourne Journal of International Law* 14, no. 1 (2013): 1–36. https://law.unimelb.edu.au/__data/assets/pdf_file/0004/1687441/04Gerber,-Kyriakakis-and-OByrne1.pdf.
- Glendon, Mary Ann. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House, 2002.

- Goggin, Gerard. "Communication Rights and Disability Online: Policy and Technology after the World Summit on the Information Society." *Information, Communication & Society* 18, no. 3 (2015): 327–41. <https://doi.org/10.1080/1369118X.2014.989879>.
- Goodhart, Michael. *Human Rights: Politics and Practice*. Oxford: Oxford University Press, 2009.
- Greer, Kenneth C. "Human Rights and the Right to Communicate." *Dalhousie Journal of Legal Studies* 1, (1992): 49–70. <https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=1002&context=djls>.
- Hackett, Robert A. "Press Freedom and Communication Rights: What Kind of Journalism Does Democracy Need?" *Pacific Journalism Review* 19, no. 1 (2013): 13–40. <https://doi.org/10.24135/pjr.v19i1.236>.
- Hackett, Robert A., and William K. Carroll. *Remaking Media: The Struggle to Democratize Public Communication (Communication and Society)*. New York and London: Routledge, 2006.
- Hallberg, Pekka, and Jane Virkkunen. *Freedom of Speech and Information in Global Perspective*. New York NY: Palgrave MacMillan, 2017.
- Hamelink, Cees J. *Human Rights for Communicators*. Cresskill, NJ: Hampton Press, 2004.
- Hamelink, Cees J., and Julia Hoffmann. "The State of the Right to Communicate." *Global Media Journal* 7, no. 13 (2008): 1–16.
- Harms, Leroy Stanley, and Jim Richstad. *Evolving Perspectives on the Right to Communicate*. Honolulu: University of Hawaii Press, 1977.
- Human Rights Committee. "General Comment No. 11 - Art. 20)" Last modified 1983. https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/I_Global/INT_CCPR_GEC_4720_E.doc.
- . "General Comment No. 16 - Article 17 The Right to Privacy." Last modified 1988. https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/I_Global/INT_CCPR_GEC_6624_E.doc.
- . "General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Art. 18). CCPR/C/21/Rev.1/Add.4." Last modified September 27, 1993. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhjsjYoiCfMkoIRv2FVaVzRkMjTnjRO%2bfud3cPVrcM9YRoiUh4IvOt-M7YUcKE6R1aBpKMyAstrxgdf4vXLMslHerLcOio8z%2f9pGJsac2JNOOTO4jAa-VkCoo2vVbw65HVERDhA%3d%3d>.
- . "General Comment No. 25 - The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25). CCPR/C/21/Rev.1/Add.7". Last modified 1996. <https://www.equalrightstrust.org/ertdocumentbank/general%20comment%2025.pdf>.
- . "General Comment No. 34 - Article 19: Freedoms of Opinion and Expression. CCPR/C/GC/34." Last modified September 12, 2011. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhjsrdBoH1I5979OVGGb%2bWPAxiKs7ivEzdmLQdosDnCG8FaJ7cPkH%2fR9Y1pwV%2bAPs%2bmcFvCdQgil4iR9ZkL7Bv4oc2QLZ3AWYcNmMYP3SjhOMZ9>.
- Jørgensen, Rikke Frank. *Human Rights in the Global Information Society (Information Revolution and Global Politics)*. Cambridge: MIT Press, 2006.
- . "Human Rights and their Role in Global Media and Communication Discourses." In *The Handbook on Global Media and Communication Policy*, edited by Robin, Mansell, and Marc Raboy. Oxford: Blackwell, 2011.
- Keller, Hellen and Leena Grover, "General Comments of the Human Rights Committee and Their Legitimacy." In *UN Human Rights Treaty Bodies: Law and Legitimacy*, edited by Hellen Keller and Geir Ulfstein, 116–98. Cambridge: Cambridge University Press, 2012.

- Kidd, Dorothy. "Communications Rights, Creativity and Social Justice." *Race, Poverty & the Environment* 16, no. 1 (2009): 73–74. <https://www.reimaginerpe.org/files/Kidd.Rights.16-1-24.pdf>.
- Lacroix, Justine, and Jean-Yves Pranchière. *Le Procès des Droits de l'Homme : Généalogie du Scepticisme Démocratique*. Paris: Éditions Seuil, 2016.
- Landry, Normand. "Médias, Technologies et Droits Humains : Notions Concurrentes. Cas Canadiens et Internationaux." *Media, Technologies and Human Rights: Competing Concepts. Canadian and International Cases* 5, no. 1 (2012): 69–81.
- . *Droits et Enjeux de la Communication*. Québec: Presses de l'Université du Québec, 2013.
- Lucchi, N. "Internet Content Governance and Human Rights." *Vanderbilt Journal of Entertainment & Technology Law* 16, no. 4 (2013–2014): 809–856.
- Mathiesen, Kay. "Human Rights as a Topic and Guide for LIS Research and Practice." *Journal of the Association for Information Science & Technology* 66, no. 7 (2015): 1305–1322. <https://doi.org/10.1002/asi.23293>.
- Mechlem, Kerstin. "Treaty Bodies and the Interpretation of Human Rights." *Vanderbilt Journal of Transnational Law* 42, no. 3 (2009): 905–947.
- McLeod, Sharynne. "Communication Rights: Fundamental Human Rights for All." *International Journal of Speech-Language Pathology* 20, no. 1 (2018): 3–11. <https://doi.org/10.1080/17549507.2018.1428687>.
- Milan, Stefania. Human Rights and the Media/Protest Assemblage. In *The Routledge Companion to Media and Human Rights*, edited by Howard Tumber and Silvio Waisbord, 327–36. New York: Routledge, 2017.
- Moeckli, Daniel. "Interpretation of the ICESCR: Between Morality and State Consent." In *The Human Rights Covenants at 50: Their Past, Present, and Future*, edited by Daniel Moeckli, Helen Keller, and Corina Heri, 48–74. Oxford: Oxford University Press, 2018.
- Morsink, Johannes. *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*. Philadelphia: University of Pennsylvania Press, 1999.
- Moyn, Samuel. *The Last Utopia: Human Rights in History*. Cambridge: Belknap, 2010.
- Moyo, Last. "Language, Cultural and Communication Rights of Ethnic Minorities in South Africa." *International Communication Gazette* 72, no. 4–5 (2010): 425–40. <https://doi.org/10.1177/1748048510362712>.
- Neuman, Gerald L. "Giving Meaning and Effect to Human Rights: The Contributions of Human Rights Committee Members." In *The Human Rights Covenants at 50: Their Past, Present, and Future*, edited by Daniel Moeckli, Helen Keller, and Corina Heri, 31–47. Oxford: Oxford University Press, 2018.
- O'Flaherty, Michael. "Freedom of Expression: Article 19 of the International Covenant on Civil and Political Rights and the Human Rights Committee's General Comment No 34." *Human Rights Law Review* 12, no. 4 (2012): 627–54. <https://doi.org/10.1093/hrlr/ngs030>.
- O'Neill, Brian. "Media Literacy and Communication Rights." *International Communication Gazette*, 72, no. 4–5 (2010): 323–38. <https://doi.org/10.1177/1748048510362445>.
- Otto, Dianne. "Gender Comment: Why Does the UN Committee on Economic, Social and Cultural Rights Need a General Comment on Women?" *Canadian Journal of Women and the Law* 14, no. 1 (2002): 14–80. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cajwo14&div=8&id=&page=>
- Padovani, Claudia, and Andrew Calabrese. *Communication Rights and Social Justice: Historical Accounts of Transnational Mobilizations*. Houndmills: Palgrave Macmillan, 2014.
- Paquette, Gilbert. "La Modélisation par Objets Typés, Une Méthode de Représentation pour Les Systèmes d'Apprentissage et d'Aide à la Tâche." *Sciences et Techniques Éducatives (Hermès)* 3, no. 1 (1996): 9–42.

- . *Modélisation des Connaissances et des Compétences – Un Langage Graphique pour Concevoir et Apprendre*. Québec: Presses de l'Université du Québec, 2002.
- Pickard, Victor. "Neoliberal Visions and Revisions in Global Communications Policy From NWICO to WSIS." *Journal of Communication Inquiry* 31, no. 2 (2007): 118–39. <https://doi.org/10.1177/0196859906298162>.
- Posorski, Jerzy Mikulowski. "The Right to Communicate: Emerging Concept and International Policy." In *Evolving Perspectives on the Right to Communicate*, edited by Stanley Leroy Harms, and Jim Richstad, 39–51. Honolulu: University of Hawaii Press, 1977.
- Raboy, Marc. "Global Communication Policy and the Realisation of Human Rights." *The Journal of International Communication* 5, no. 1–2 (1998): 83–104. <https://doi.org/10.1080/13216597.1998.9751866>.
- Raboy, Marc, and Jeremy Shtern. *Media Divides: Communication Rights and the Right to Communicate in Canada*. Vancouver: UBC Press, 2010.
- Raboy, Marc, and Normand Landry. *Civil Society, Communication and Global Governance: Issues from the World Summit on the Information Society*. New York: Peter Lang, 2005.
- Raboy, Marc, Normand Landry, and Jeremy Shtern. *Digital Solidarities, Communication Policy and Multi-stakeholder Goal Governance. The Legacy of the World Summit on the Information Society*. New York: Peter Lang, 2010.
- Schmidt, Markus. "Vers Une Jurisprudence Internationale en Matière de Droits de l'Homme – L'Expérience du Comité des Droits de l'Homme." In *Les Juridictions Internationales: Complémentarité ou Concurrence ?*, edited by Peter Leuprecht, René Côté, Olivier Delas, and François Crépeau, 163–68. Bruxelles: Bruylant, 2005.
- Security Council. "Speakers in Security Council Urge Balance between UN Role in State Sovereignty, Human Rights Protection, But Differ over Interpretation of Charter Principles, SC/12241, 2016." <https://www.un.org/press/en/2016/sc12241.doc.htm>.
- Sen, A. Fulya. "Communication and Human Rights." *Procedia - Social and Behavioral Sciences*, vol. 174 (2015): 2813–17. <https://doi.org/10.1016/j.sbspro.2015.01.972>.
- Shawki, Noha, and Michaelene Cox. *Negotiating Sovereignty and Human Rights: Actors and Issues in Contemporary Human Rights Politics*. Farnham: Ashgate Pub, 2009.
- Sinjela, Mpazia. *Human Rights and Intellectual Property Rights (Tensions and Convergences)*. Leiden: Martinus Nijhoff, 2007.
- Thomas, Pradip Ninan. *Negotiating Communication Rights: Case Studies From India*. New Delhi: Sage Publications, 2011.
- Tumber, Howard, and Silvi Waisbord. *The Routledge Companion to Media and Human Rights*. London: Routledge, 2017.
- United Nations Committee on Economic, Social and Cultural Rights. "General Comment No. 13(Twenty-first session, 1999). The Right to Education (article 13 of the Covenant). E/C.12/1999/10." Last modified December 8, 1999. https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf.
- . "General Comment No. 17: The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from Any Scientific, Literary or Artistic Production of Which He or She is the Author. E/C.12/GC/17." Last modified January 12, 2006. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSm1BEDzFEovLCuW1a0SzabooXTdImnsJZZVQcMZjyZIUmZS43h49uoCNAUjJjwgfzCL8JQ1SHYtZH6jix%2b%2bJ52uwlAjKLYmCN91k38ISjc6yo0jCUf6xZ539TT>.

———. “General Comment No. 21. Right of Everyone to Take Part in Cultural Life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights). E/C.12/GC/21.” Last modified December 21, 2009. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1aoSzabooXTdImnsJZZVQc5ReG9hKvddWC2ML5U76E63nT%2beY%2btmSVIRSoynNoq4KgDA8%2f4gyOFVrrEkdc%2fYiwgtfvUuoEAWqAM%2f5xhUGJo>.

Wheatley, Steven. *The Idea of International Human Rights Law*. Oxford: Oxford University Press, 2019.