Computer Professionals for Social Responsibility
on behalf of the Communication Rights Caucus

Comments on the 21 March 2003 Draft Declaration of Principles and Draft Plan of Action to the World Summit on the Information Society (WSIS)

The Communication Rights Caucus of the WSIS Civil Society Plenary

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The Communication Rights Caucus is a group formed by Civil Society Organizations participating in the World Summit on the Information Society.

This document contains the comments (both specific to paragraphs in the texts and general comments) in the context of human rights and communication rights in reference to:

- Document WSIS/PCIP/DT/1-E (21 March 2003) Draft declaration of Principles Based on discussions in the Working Group of Sub-Committee 2 (DT-2 revised)

- Document WSIS/PCIP/DT/1-E (21 March 2003) Draft action plan Based on discussions in the Working Group of Sub-Committee 2 (WSIS/PC-2/DT-3 revised)

I. Comments on the Draft Declaration of Principles (specific to paragraphs)

1) In reference to Paragraph 10 of the Draft Declaration of Principles
We positively consider the fact that "respect for human rights and fundamental freedoms" is explicitly mentioned as the first essential requirement for the development of an equitable information society. Nevertheless, it is not sufficient to assert that "the essential requirements for the development of an equitable Information Society" should be "in accordance" with Article 19 of the UN Universal Declaration of Human Rights. Instead, the document should declare once and for all that Article 19 must be enforced. In addition, the principles of a better balanced flow of information, free circulation of ideas, press freedom, participation in the communication process, and knowledge sharing will become truly meaningful only when they are viewed as being supported by a consistent articulation of rights, not just Article 19. To this end, the document should declare that the following rights be enforced in concert in order that Paragraph 10 be made more meaningful:

    Article 12 -- Privacy;
    Article 18 -- Freedom of thought, conscience, and religion;
    Article 19 -- Freedom of expression and the right to seek, receive, and impart
            information through any media;

Article 20 -- Freedom of peaceful assembly;
Article 26 -- The right to education; and,
Article 27 -- The right to participate in the cultural life of the community as well as intellectual property rights.

Moreover we suggest that "communication rights" should be mentioned among the **essential requirements** in the following manner:

> *"Communication is a fundamental participative and interactive process, now supported by technological developments, and is the foundation of all societal organization: a strong emphasis on communication rights should therefore be placed in the new societal organization we call Information Society. Therefore protection of communication rights, including cultural rights, development rights and individual rights in the cyberspace should be recognize as essential, promoted and guaranteed."*

2) In reference to Paragraph 21 of the Draft Declaration of Principles

Also positive is the fact that "right to communicate" is explicitly mentioned in n. 21 (together with "right of citizens to access information") though not articulated in any way. A further articulation would help in defining the very idea of access (to which the right is connected). The suggested wording could be:

> *"The right to communicate is fundamental to the Information Society. This requires the recognition of the right of individuals and communities to a fair and equitable access to the means of information and communication , as well as the right of fair and equitable access to information and knowledge that is relevant to their lives."*

3) In reference to Paragraph 26 of the Draft Declaration of Principles

"A better balance in information flows should be sought in building the Information Society" sounds very vague and weak. I would a) require this to be articulated as an essential requirement for the Information Society and b) refer to art. 28 of the Universal Declaration of Human Rights:

> *"Since everyone has the right to an international environment where his/her rights can be fully respected, such an environment can only be created through a fair and equitable balance in information flows, easy access to information of public national and international interest, and guaranteed access to communication resources that need to be recognized as global commons"*

4) In reference to Paragraphs 48-51 of the Draft Declaration of Principles

Much is said about cultural identity and diversity, but no mention is made of the pluralism of media (traditional and new + mainstream and independent and alternative) and the diversity of voices and information sources that would allow a genuine public sphere to develop. Given the fact that media development is mentioned explicitly in the tile, we suggest n. 51 to be integrated as follows:

> *"ICTs can strengthen the role of traditional media such as broadcasting and print, which will continue to have an important role in disseminating content in the information society. Therefore applications and policies should be developed to promote the integration of traditional and new media in the light of the right to communicate: fostering pluralism of voices and diversity of means"*

I.a General comments on the Draft Declaration of Principles

a) The way in which observers' comments where added to the drafts is quite confusing; there are no clear criteria, there is a need for a rationale and it would be useful to be able to identify the authors who have suggested changes that were inserted in the text.

b) Security and confidence are widely mentioned in the draft, but we have a major concern in this regard. We realize that focus is mainly on international stability, security of the sovereign state and on the creation of an enabling environment for e-business and e-commerce to flourish. However, no mention whatsoever is made of the right of individuals to the security of their communications.

Security issues-related sections in both the Declaration and Action Plan are very problematic. We strongly advocate a complete re-write of both sections, outlining the complexity of the issue, lack of understanding and awareness that can lead to making uninformed decisions. We also suggest that cases of 'best practice' should be indicated (for instance in the light of OECD guidelines on security and data protection).

Globally, in the light of the proposal to develop "a global culture of cyber-security" we stress the need for such a culture (and related policies, laws, regulation and practices) to be:

> *"respectful of human integrity and dignity in the new electronic environment, against any abuse of information and communication technologies. The right to cyber-security should be promoted with reference to individuals and communities as well as institutions"*

II. Comments on the Draft Action Plan (specific to paragraphs)

1. **In reference to paragraph 45 of the Draft Action Plan -- (Examples of possible concrete and comprehensive actions could include):** Concrete actions that support the calls in the Declaration of Principles for human rights must include the creation of enforcement mechanisms that provide: means of ensuring accountability, effective remedy should violations occur, and effective redress against both governmental and non-governmental organizations who commit violations. It must also provide for procedural enforcement, including: the right of individuals and groups to file formal complaints of violations, recognition of an independent tribunal to adjudicate such complaints, and the recognition as binding the opinions of the independent tribunal on the states who are party to the WSIS declaration, as well as individuals and groups within them. Implementation mechanisms must include a review and monitoring body, a special rapporteur, and an independent tribunal. The special rapporteur, as in other human rights frameworks, would be responsible for conducting independent research and evaluation of the implementation processes.

II.a General comments to the Draft Plan of Action

The Communication Rights Caucus considers the way in which civil society is present throughout the draft and the role envisaged for civil society as ineffective and unsatisfactory.

Apart from the discussion about cooperation and partnership (interestingly the media suddenly appear as a stakeholder in the Plan of Action, being barely considered in the Declaration.), the document declares only that civil society "including NGOs, should work closely with communities

in strengthening ICT-related initiatives" (n. 17). Furthermore, its involvement is crucial for creating an equitable Information Society "in the take-up and social acceptance of the Information Society". Finally "it can help to strengthen the value aspect in the triangle of regulation, markets and values." (n. 49).

It seems that civil society, including NGOs and other types of entities, is to play only the role of facilitating social acceptance of what is being designed through regulation and the market. There is also seems to be no recognition or articulation of other types of civil society entities in all of their variety and world of differences: groups, families, or other formations.

There seems to be no recognition of civil society's capacity to use and develop innovative uses of information and communication technologies; no recognition of the specific competencies that can be found in the different "sectors" of civil society; no recognition of the capacity to build alternative/different economic models through the use of ICTs; no understanding of the efforts made to develop languages and alphabets for a participatory and equitable information society.

The Communication Rights Caucus supports a more comprehensive and coherent approach to describing the role of civil society and NGOs in partnership building and in fostering an equitable, inclusive and sustainable information society