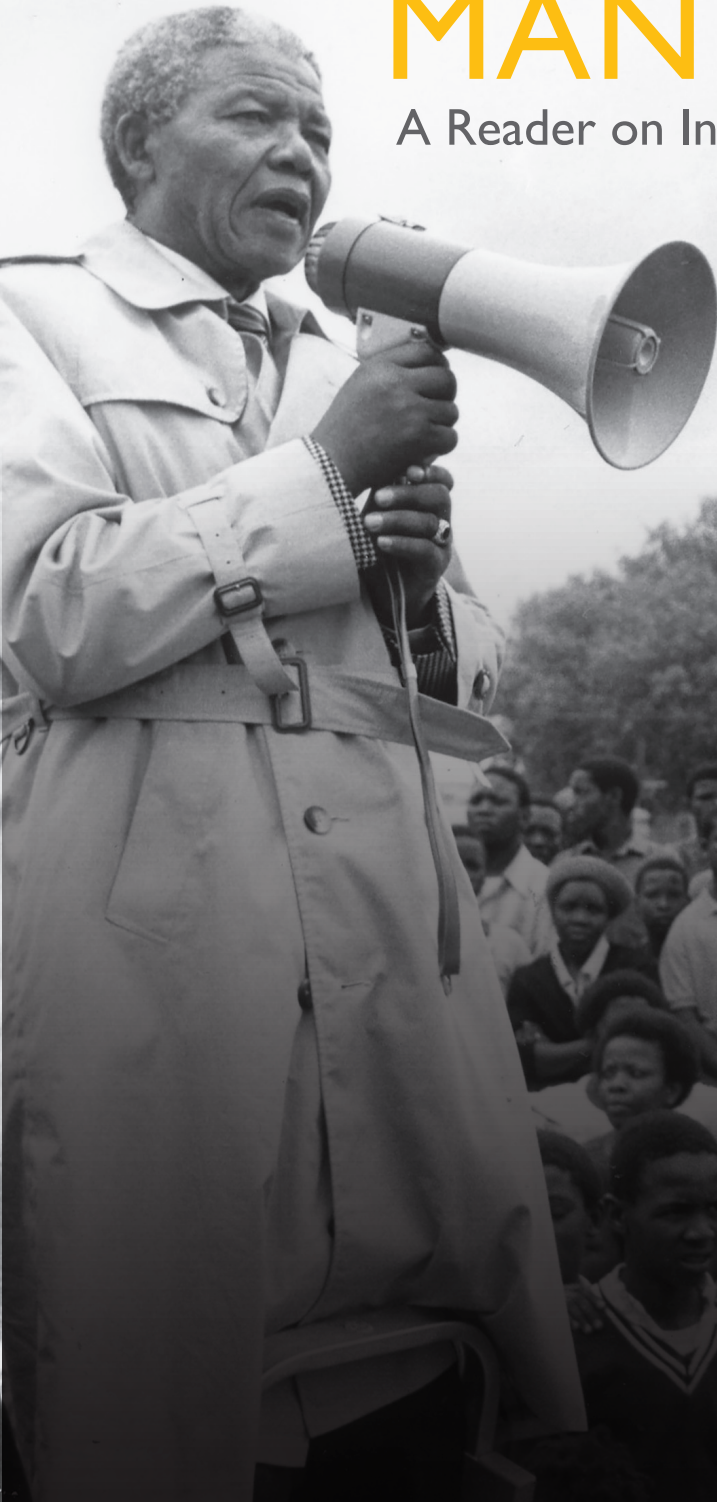# NELSON MANDELA

A Reader on Information Ethics

EDITED BY
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Johannes Britz,
Rafael Capurro &
Rachel Fischer

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Prof. Rafael Capurro

INTRODUCTION

The idea for this reader on Nelson Mandela arose during the International Policy Dialogue on IFAP (Information for all Programme, UNESCO). Priority areas focused on BRICS organised by UNESCO and the Department of Information Science, African Centre of Excellence for Information Ethics (ACEIE) at the University of Pretoria in collaboration with UNESCO and representatives of the BRICS group (Brazil, Russia, India, China, South Africa) held in Cape Town on 4–6 July 2018 (Capurro, 2020). During the meeting a speech by Frederik Willem de Klerk and a visit to Robben Island took place. In the aftermath both events made it evident to me that Nelson Mandela's autobiography *Long Walk to Freedom* as well as his letters and speeches (Mandela, 2003; 2010) deal with IFAP topics such as information for development, information literacy, information preservation, information accessibility and multilingualism. Mandela's life – particularly his reflection upon it in his autobiography – is an example of how freedom of information that is at the core of a free society can take place in heterotopian spaces, i.e. in 'worlds within worlds' with their own rules and routines (Wikipedia: Heterotopia). A jail is such a heterotopian space, but also a whole country ruled by apartheid.

Mandela spent 27 years in jail, 18 of them on Robben Island (1964–1982), prisoner number 466/64, in a cell measuring 8 feet (2.4 m) by 7 feet (2.1 m). A heterotopian space within another one. He imagined his country as a place in which the rule of law, freedom of speech and social justice are the common basis for all South Africans. Mandela describes his experience on Robben Island in a letter to Winnie Mandela dated 16 November 1970 as follows:

> You looked much better than I expected, but far from what you were when we last met in Dec. '68. The cumulative effect of a thousand and one strains was clearly visible. As I walked back to the jail after the interview, I was preoccupied with the fear that now that you have to live alone for 12 hours in the night, loneliness and anxiety might worsen your condition. This fear still haunts me.
>
> Incidentally, on my way down to the visiting rooms on Nov. 7, I managed to see the boat on which you came as it steamed gracefully to harbour, beautiful in its bright colours. Even at a distance it looked a real prisoner's friend, and I became more anxious as it approached. You know why! I saw it again as it sailed back to the mainland. This time the picture was altogether different. Though it still retained its brightness, the beauty I had seen only a few hours before was gone. Now it looked grotesque and quite unfriendly. As it drifted slowly away with you, I felt all alone in the world and the books that fill my cell, which have kept me company all these years, seemed mute and unresponsive. Have I seen my darling for the last time, it is a question that kept recurring. (Mandela, 2010, 187; Dixon, 2013)

Every word of this letter is worth being meditated upon. The incoming boat bringing Winnie back after two years of separation looks like 'a real prisoner's friend' while the boat leaving Robben Island 'looked grotesque and quite unfriendly'. The difference between the incoming and the leaving boat corresponds to the difference between the heterotopian space in which Mandela is living and the 'normal' apartheid world in which she lives. The separation from Winnie lets him feel 'alone in the world', disconnected from any social experience, where not even books, a written expression of human conversation, can keep him company. They 'seemed mute and unresponsive'. Books cannot speak or give an answer to a question if they are not seen as belonging implicitly or explicitly to social life. This

experience of meeting and separating from each other is a limited experience concerning all that is excluded in a jail, within another heterotopian space, the apartheid state. In a letter to Winnie dated 1 February 1975 Mandela writes that the cell is the place where he feels as though he is 'alone in the world'. How is this change of perspective possible? It is possible because, as Aristotle puts it, 'the psyche is in a way all beings' (Aristotle, 1974: III 431b21). Mandela writes:

> Incidentally, you may find that the cell is an ideal place to learn to know yourself, to search realistically and regularly the process of your mind and feelings. In judging our progress as individuals we tend to concentrate on external factors such as one's social position, influence and popularity, wealth and standard of education. These are, of course, important in measuring one's success in material matters and it is perfectly understandable if many people exert themselves mainly to achieve all these. But internal factors may be even more crucial in assessing one's development as a human being. Honesty, sincerity, simplicity, humility, pure generosity, absence of vanity, readiness to serve others – qualities which are within easy reach of every soul – are the foundation of one's spiritual life. Development in matters of this nature is inconceivable without serious introspection, without knowing yourself, your weaknesses and mistakes. At least, if for nothing else, the cell gives you the opportunity to look daily into your entire conduct, to overcome the bad and develop whatever is good in you. Regular meditation, say about 15 minutes a day before you turn in, can be very fruitful in this regard. You may find it difficult at first to pinpoint the negative features in your life, but the 10th attempt may yield rich rewards. Never forget that a saint is a sinner who keeps on trying. (Mandela, 2010: 211–212)

Mandela's cell becomes 'incidentally' the place where his soul has the opportunity to reflect about being 'in a way all beings' (Aristotle, 1974: III 431b21). In a letter dated 25 February 1987, five years after leaving Robben Island, he writes to Frieda Matthews, married to Professor Zachariah Keodirelang (ZK) Matthews (1901–1968), academic, politician and anti-apartheid activist, member of the ANC:

> A visit to a prisoner always has significance difficult to put into words.

> Routine is the supreme law of a prison in almost every country of the world, and every day is for all practical purposes like the day before: the same surroundings, same faces, same dialogue, same odour, walls rising to the skies, and the ever-present feeling that outside the prison gates there is an exciting world to which you have no access. A visit from your beloved ones, from friends and even from strangers is always an unforgettable occasion, when that frustrating monotony is broken and the entire world is literally ushered into the cell. (Mandela, 2010: 150)

The world that was 'literally ushered into the cell' was brought by each visitor, their souls being 'in a way all beings' (Aristotle, 1974: III 431b21). The visitors made manifest to him the difference between the heterotopian space of the jail and the 'exciting world to which you have no access'. This difference was the source for Mandela becoming a freedom fighter. In an unpublished autobiographical manuscript written in prison he states:

> I am also aware that massive efforts have been made here and abroad for my release and that of other political prisoners, a campaign which has given us much inspiration and shown us that we have hundreds of thousands of friends. Next to my wife's affection and that of the family as a whole, few things have inspired me more than the knowledge that in spite of all that the enemy is doing to isolate and discredit us people everywhere never forget us. But we know the enemy very well – they would like to release us from a position of strength and not of weakness and this is an opportunity they have missed forever. However inspiring it is to know that our friends are insisting on our release, a realistic approach clearly shows that we must rule out completely the possibility that such a demand will succeed. But I am highly optimistic, even behind prison walls I can see the heavy clouds and the blue sky over the horizon, that however wrong our calculations have been and whatever difficulties we still must face, that in my lifetime I shall step out into the sunshine, walk with firm feet because that event will be brought by the strength of my organisation and the sheer determination of our people. (Mandela, 2010: 243–244)

Mandela can see the common world 'even behind prison walls' as an open natural and human world of 'heavy clouds and the blue sky over the horizon' that he shares, despite living in prison, with all his friends, his

family, his organisation and his people. Being a prisoner but knowing that he is a free man aiming at living in a free society is the ethical foundation of Mandela's life and work as a 'freedom fighter'. It enabled him not only to fight for freedom but also to reflect upon it, becoming a fighter committed to living according to his maxims and to render himself accountable about his deeds and aspirations.

A freedom fighter has a strong soul and a strong body. Gavin Evans, lecturer at Birkbeck, University of London, had the privilege to interview Mandela. Here are some of his findings concerning Mandela's physical exercises.

> Mandela started boxing as a student at Fort Hare University, and then trained more seriously when studying, working and struggling in Johannesburg during the 1940s and 50s, although he didn't fight competitively and was modest about his prowess. 'I was never an outstanding boxer,' he said in his autobiography, *Long Walk to Freedom*. 'I was in the heavyweight division, and I had neither enough power to compensate for my lack of speed nor enough speed to make up for my lack of power.'
>
> What he relished about it was the rigour of training, a routine periodically broken by arrest and the demands of the 'struggle', but not often. He wrote:
>
> *I unleashed my anger and frustration on a punch bag rather than taking it out on a comrade or even a policeman.* […]
>
> Mandela believed this routine was the key to both physical health and peace of mind. Exercise dissipates tension, and tension is the enemy of serenity.
>
> *I found that I worked better and thought more clearly when I was in good physical condition, and so training became one of the inflexible disciplines of my life*. (Evans, 2020)

In a conversation with Richard Stengel, American editor of *Time* magazine who collaborated on his autobiography, Mandela explains what it means to be in solitary confinement at Pretoria Local Prison while awaiting trial in 1962:

> To be *alone* in prison is a difficulty. You must never try it. So what they did was to *isolate* me without actually, you know, punishing me in the

sense of depriving me of meals. But they made sure that I did not see a *face* of a prisoner. I saw a warder all the time; even my food was brought in by a warder. [*chuckles*] And they would let me out for thirty minutes in the morning and thirty minutes in the afternoon, and when the *other* prisoners were locked up. (Mandela, 2010: 148–149)

Reading Mandela's autobiography raises the question about the leitmotif of his life and thinking. I call this leitmotiv his struggle against all kinds of information segregation, particularly with regard to race, religion or social status, leading to humiliation and dehumanisation by treating others as 'mere means'; that is to say, instrumentalising them and ignoring their dignity, to put it in Kantian terms. Information segregation goes beyond not only the context of apartheid in South Africa but also of Mandela's lifetime as he himself is aware. Reflecting upon the historical situation of apartheid in South Africa opens a universal perspective to Mandela himself as well as to his unique historical situation and cultural tradition. This enabled him and his counterpart, Frederik Willem de Klerk, to open a humane foundation for South Africa. What bound these two leaders was their will to reconciliation. This made it possible to lay the ground for the creation of a free society in South Africa, where information could be shared by everybody on the basis of mutual respect and equality before the law. Mandela's life and work show the dark side of a society in which information sharing is subject to oppression and exclusion that turns out to be morally and politically not only unsustainable but untenable. What is morally evil is the will to achieve something that implies lastly the annihilation of this will.

In the following section I let Mandela speak mainly through excerpts of his autobiography and make comments thereupon from an information ethics perspective.

LONG WALK TO FREEDOM

'Habent sua fata libelli.' This dictum from *Terentianus Maurus* (2nd century AD) does not apply only to 'little books' such as essays and pamphlets as having 'destinies' independently of the author's intention, but means also that the understanding of a message depends on the reader's pre-understanding ('pro captu lectoris') as the first part of the dictum states

(Beck, 1992: 123). This is not obvious in the case of Mandela's autobiography that was supposed to be destroyed. In the acknowledgements Mandela tells the story about the 'destiny' of the book.

> As readers will discover, this book has a long history. I began writing it clandestinely in 1974 during my imprisonment on Robben Island. Without the tireless labour of my old comrades Walter Sisulu and Ahmed Kathrada for reviving my memories, it is doubtful the manuscript would have been completed. The copy of the manuscript which I kept with me was discovered by the authorities and confiscated. However, in addition to their unique calligraphic skills, my co-prisoners Mac Maharaj and Isu Chiba had ensured that the original manuscript safely reached its destination. I resumed work on it after my release from prison in 1990. Since my release, my schedule has been crowded with numerous duties and responsibilities, which have left me little free time for writing. Fortunately, I have had the assistance of dedicated colleagues, friends, and professionals who have helped me complete my work at last, and to whom I would like to express my appreciation. (Mandela, 2013: ix)

What is an autobiography? Mandela gives the following self-critical answer in a letter to Fatima Meer (1918–2010), writer, academic, anti-apartheid and women's rights activist, dated 1 March 1971:

> I shall stick to our vow: never, never under any circumstances, to say anything unbecoming of the other ... The trouble, of course, is that most successful men are prone to some form of vanity. There comes a stage in their lives when they consider it permissible to be egoistic and to brag to the public at large about their unique achievements. What a sweet euphemism for self-praise the English language has evolved! Autobiography, they choose to call it, where the shortcomings of others are frequently exploited to highlight the praiseworthy accomplishments of the author. I am doubtful I will ever sit down to sketch my background. I have neither the achievements of which I could boast nor the skill to do it. [...] I'm one of those who possess scraps of superficial information on a variety of subjects, but who lacks depth and expert knowledge on the one thing in which I ought to have specialised, namely the history of my country and people. (Mandela, 2010: 7)

Seven years later, in 1978, on the occasion of his sixtieth birthday, Mandela tells how this autobiography was created. It is an outstanding example of how the principles of freedom of information and the right to communicate are seen as an ethical challenge in a heterotopic situation. He writes:

> One day, Kathy, Walter, and myself were talking in the courtyard when they suggested that I ought to write my memoirs. Kathy noted that the perfect time for such a book to be published would be on my sixtieth birthday. Walter said that such a story, if told truly and fairly, would serve to remind people of what we had fought and were still fighting for. He added that it could become a source of inspiration for young freedom fighters. [...]
>
> We created an assembly line to process the manuscript. Each day I passed what I wrote to Kathy, who reviewed the manuscript, and then read it to Walter. Kathy then wrote their comments in the margins. Walter and Kathy have never hesitated to criticize me, and I took their suggestions to heart, often incorporating their changes. This marked-up manuscript was then given to Laloo Chiba, who spent the next night transferring my writing to his own almost microscopic shorthand, reducing ten pages of foolscap to a single small piece of paper. It would be Mac's job to smuggle the manuscript to the outside world. The warders grew suspicious. They went to Mac and said, 'What is Mandela up to? Why is he sitting up late at night?' But Mac merely shrugged his shoulders and said he had no idea. I wrote rapidly, completing a draft in four months. I did not hesitate over choosing a word or phrase. I covered the period from my birth through the Rivonia Trial, and ended with some notes about Robben Island. [...]
>
> Mac ingeniously hid the transcribed version of the manuscript inside the binding of a number of notebooks he used for his studies. In this way, he was able to safeguard the entire text from the authorities and smuggle it out when he was released in 1976. (Mandela, 2013: 567–568)

'Long Walk to Freedom *was fundamentally, and very deliberately, the work of a collective*' (Harris, 2010). Satyandranath Maharaj (Mac) (1935–) – an academic, politician, political and anti-apartheid activist, political prisoner and MP, sentenced to twelve years' imprisonment which he served in Robben Island – helped to secretly transcribe Mandela's autobiography and smuggle it out of prison when he was released in 1976 (Mandela, 2010:

430). This is his testimony on the issue that Mandela's autobiography was the result of collective writing under his (Mandela's) leadership:

> So, coming back to this leadership factor. Yes, Mandela had already carved a space in which, even in the treason trial, those qualities in him were being noticed. And I've asked Walter Sisulu what made him spot in Mandela a leader. And I said to him, what made you see the potential? And he said, what I saw in Mandela was not only a young man who was determined to fight for freedom, but I saw the determination with which he applied himself. If you go to the Mandela Foundation and look at his notes, you will see how he thinks and rethinks issues, and I've had the privilege of working on his autobiography and engaging in close discussions on the contents and his formulations. Security considerations did not allow for Mandela to keep with him what he had already written. Night after night he had to move on writing the next 10–15 pages. (Maharaj, 2020)

Freedom of information understood as the right to communicate and disseminate freely through different media our thoughts is a fundamental human right and the foundation of a free society. Fighting for freedom of information underlies Mandela's life and his autobiography as a message addressed to the people of South Africa, particularly to those excluded from such freedom.

THE BIRTH OF A FREEDOM OF INFORMATION FIGHTER

Mandela's autobiography begins with his youth. The reader who takes the perspective of information ethics will find in this story the roots of Mandela's becoming what I call a freedom of information fighter in the tribal meetings to which all members of the Thembu people who settled in what became the province of KwaZulu-Natal could participate. Mandela writes:

> Everyone who wanted to speak did so. It was democracy in its purest form. There may have been a hierarchy of importance among the speakers, but everyone was heard, chief and subject, warrior and medicine man, shopkeeper and farmer, landowner and labourer. People

spoke without interruption and the meetings lasted for many hours. The foundation of self-government was that all men were free to voice their opinions and equal in their value as citizens. (Women, I am afraid, were deemed second-class citizens.) A great banquet was served during the day, and I often gave myself a bellyache by eating too much while listening to speaker after speaker. I noticed how some speakers rambled and never seemed to get to the point. I grasped how others came to the matter at hand directly, and who made a set of arguments succinctly and cogently. I observed how some speakers used emotion and dramatic language, and tried to move the audience with such techniques, while other speakers were sober and even, and shunned emotion. [...]

As a leader, I have always followed the principles I first saw demonstrated by the regent at the Great Place. I have always endeavoured to listen to what each and every person in a discussion had to say before venturing my own opinion. Oftentimes, my own opinion will simply represent a consensus of what I heard in the discussion. I always remember the regent's axiom: a leader, he said, is like a shepherd. He stays behind the flock, letting the most nimble go out ahead, whereupon the others follow, not realizing that all along they are being directed from behind. (Mandela, 2013: 24–26)

In a conversation with Richard Stengel, Mandela stresses the importance of indigenous languages and cultures in conjunction with Western traditions in his youth:

Most men, you know, are influenced by their background. I grew up in a country village until I was twenty-three, when I then left the village for Johannesburg. I was of course ... going to school for the greater part of the year, come back during the June and December holidays – June was just a month and December about two months. And so all throughout the year I was at school ... And then in [19]41 when I was twenty-three, I came to Johannesburg and learned ... to absorb Western standards of living and so on. But ... my opinions were already formed from the countryside and ... you'll therefore appreciate my enormous respect for my own culture – indigenous culture ... Of course Western culture is something we cannot live without, so I have got these two strands of cultural influence. But I think it would be unfair to say this is particular to me because many of our men are influenced by that ... I am now more

comfortable in English because of the many years I spent here and I've spent in jail and I lost contact, you know, with Xhosa literature. One of the things which I am looking forward to when I retire is to be able to read literature as I want, [including] African literature. I can read both Xhosa and Sotho literature and I like doing that, but the political activities have interfered ... I just can't read anything now and it's one of the things I regret very much. (Mandela, 2010: 8–9)

Freedom of information in a multi-ethnic and multilingual society is a key issue for Mandela all along his life as a freedom fighter. He writes:

At the beginning of 1942, in order to save money and be closer to downtown Johannesburg, I moved from the room at the back of the Xhomas' to the WNLA compound. I was assisted by Mr. Festile, the *induna* at the Chamber of Mines, who was once again playing a fateful role in my life. On his own initiative he had decided to offer me free accommodation in the mining compound.

The WNLA compound was a multiethnic, polyglot community of modern, urban South Africa. There were Sothos, Tswanas, Vendas, Zulus, Pedis, Shangaans, Namibians, Mozambicans, Swazis, and Xhosas. Few spoke English, and the lingua franca was an amalgam of many tongues known as Fanagalo. There, I saw not only flare-ups of ethnic animosity, but the comity that was also possible among men of different backgrounds. Yet I was a fish out of water there. Instead of spending my days underground, I was studying or working in a law office where the only physical activity was running errands or putting files in a cabinet. [...]

The queen took special notice of me and at one point addressed me directly, but she spoke in Sesotho, a language in which I knew few words. Sesotho is the language of the Sotho people as well as the Tswana, a large number of whom live in the Transvaal and the Orange Free State. She looked at me with incredulity, and then said in English, 'What kind of lawyer and leader will you be who cannot speak the language of your own people?' I had no response. The question embarrassed and sobered me; it made me realize my parochialism and just how unprepared I was for the task of serving my people. I had unconsciously succumbed to the ethnic divisions fostered by the white government and I did not know how to speak to

my own kith and kin. Without language, one cannot talk to people and understand them; one cannot share their hopes and aspirations, grasp their history, appreciate their poetry, or savour their songs. I again realized that we were not different people with separate languages; we were one people, with different tongues. (Mandela, 2013: 96–97)

PRISONER 466/64

Part eight of Mandela's autobiography bears the title 'Robben Island: The Dark Years.' The following excerpt is an example on how Mandela fought for freedom of information within the heterotopian space of the jail on Robben Island during the 'dark years' between 1964 and 1969. He writes:

> One morning, several days after my meeting with Bram and Joel, we were taken to the head office. The head office was only about a quarter of a mile away and was a simple stone structure that resembled our own section. Once there, we were lined up to have our fingerprints taken, which was routine prison service business. But while waiting, I noticed a warder with a camera. After our fingerprints had been taken, the chief warder ordered us to line up for photographs. I motioned to my colleagues not to move, and I addressed the warder: 'I would like you to produce the document from the commissioner of prisons authorizing our pictures to be taken.' Photographs of prisoners required such authorization. (Mandela, 2013: 469)

When it comes to take photographs of the prisoners Mandela refuses also in the name of the other prisoners on the basis of legal regulations: 'As a rule, we objected to having our pictures taken in prison on the grounds that it is generally demeaning to be seen as a prisoner.' His argument is legal and ethical as well based on the respect of human dignity. The visit from a reporter and a photographer from the *Daily Telegraph* – 'our first official visitors' – is an example of the ambivalence of communication with the 'normal' world in a heterotopian environment. Mandela and his mates were well aware that this was a conservative newspaper. Mandela is allowed to speak 'on behalf of my fellow prisoners', something the prison service regulations wanted to avoid 'in order to neutralize our collective strength'. Mandela stresses this linguistic regulation with the remark: 'We

were not even permitted to use the word *we* when we made complaints.' And he adds immediately a sentence that acknowledges his leadership as recognised by the prison authorities: 'But during the first few years, when the authorities needed one prisoner to speak on behalf of others, that individual would be me.' What was the result of this meeting with the journalists? 'I never saw the article or heard anything about it. The reporters were barely out of sight when the warders removed the jerseys and gave us back our hammers.' Prison jerseys instead of hammers and then back to hammers. This was the kind of denigrating play to take place when communicating with the 'free press' of the 'normal society' outside Robben Island. This kind of deceit is repeated in the case of the visit of 'a British lawyer' and of 'Mr. Hynning, a representative of the American Bar Association' who arrived in the company of General Steyn, the commissioner of prisons 'a polished and sophisticated man'. Mandela remarks: 'He was courtly, and referred to us as "gentlemen", even doffing his hat to us, something no one else in the prison service ever did.' But then, Mandela speaks out the truth: 'Yet General Steyn oppressed us by omission rather than commission. He basically turned a blind eye to what was happening on the island.' General Steyn spoke as a representative of the 'normal world' of apartheid when visiting the heterotopia of Robben Island. The outcome was that 'his habitual absence emboldened the more brutal prison officials and gave them carte blanche to do whatever they wanted.' Mandela told Mr Hynning about the 'living conditions' and 'the problems with our cells'. Mr Hynning's remark was cynical, telling him that 'the conditions in backward American prisons were far worse than on Robben Island, which was a paradise by comparison'. Mandela interrupts him: 'No, sir, you misunderstand the points that I am making'. Mr Hynning is not amused. Mandela's conclusion: 'To meet someone with so impressive an affiliation and so little understanding was depressing. Hynning finally just turned and walked away without so much as a good-bye. We were not sorry to see him go.' This is an example of Mandela's capacity of having a conversation that turns into a non-conversation, defending his dignity and that of his 'fellow prisoners'. Mandela's reflection many years later is full of humour and without 'rancune': 'We discussed Mr Hynning for years afterwards and many of the men imitated the way he spoke to comic effect.'

BEGINNING TO HOPE: ENGAGING IN CONVERSATIONS

Part nine of Mandela's autobiography bears the title 'Beginning to Hope: Engaging in Conversations' for the time between 1969 and 1980. This title shows, once more, the importance Mandela gave to free talk in a heterotopian place. Hope is rooted in engaging in conversations. Mandela's long walk to freedom is intrinsically a walk to freedom of speech. What makes his fight for freedom unique is his capacity to reflect on what is happening when engaging in conversations. Mandela's political commitment is an ethical one. It is grounded in his conviction that a human world is a world in which people can talk freely to each other, presupposing that each one recognises the other as equal. Humans share a common world and are able to address each other beyond all differences that are relative in both senses of the word: they are not considered as excluding us from each other or even believing to be higher in a hierarchical sense. Mandela's engagement in conversations with the warders is an example of how difficult it is for such basic human commonality to take place in heterotopian situations. Trust and mistrust are survival strategies. He writes:

> Some of the warders began to engage us in conversation. I never initiated conversations with warders, but if they addressed a question to me, I tried to answer. It is easier to educate a man when he wants to learn. Usually, these questions were posed with a kind of exasperation: 'All right, Mandela, what is it you really want?' Or, 'Look, you have a roof over your head and enough food, why are you causing so much trouble?' I would then calmly explain our policies to the warders. I wanted to demystify the ANC for them, to peel away their prejudices. (Mandela, 2013: 542)

In the heteropian space of the jail there were spaces of hope. Mandela writes:

> In the struggle, Robben Island was known as 'the University'. This is not only because of what we learned from books, or because prisoners studied English, Afrikaans, art, geography, and mathematics, or because so many of our men, such as Billy Nair, Ahmed Kathrada, Mike Dingake, and Eddie Daniels, earned multiple degrees. Robben Island was known as 'the University' because of what we learned from each other. We became our own faculty, with our own professors, our own

curriculum, our own courses. We made a distinction between academic studies, which were official, and political studies, which were not.

Our university grew up partly out of necessity. As young men came to the island, we realized that they knew very little about the history of the ANC. Walter, perhaps the greatest living historian of the ANC, began to tell them about the genesis of the organization and its early days. His teaching was wise and full of understanding. Gradually, this informal history grew into a course of study, constructed by the High Organ, which became known as Syllabus A, involving two years of lectures on the ANC and the liberation struggle. Syllabus A included a course taught by Kathy, 'A History of the Indian Struggle.' Another comrade added a history of the Coloured people. Mac, who had studied in the German Democratic Republic, taught a course on Marxism. (Mandela, 2013: 556)

In part ten of the autobiography 'Talking with the Enemy' (1980–1982) Mandela tells the story about how the 'normal world' began to change and how this change was perceived by him as an ambivalent sign of hope, based on 'secret talks'. He writes:

Despite my optimism about the secret talks, it was a difficult time. I had recently had a visit from Winnie and I learned that 8115 Orlando West, the house in which we had been married and which I considered home, had been burned down by arsonists. We had lost invaluable family records, photographs, and keepsakes – even the slice of wedding cake Winnie was saving for my release. I had always thought that someday when I left prison I would be able to recapture the past when looking over those pictures and letters, and now they were gone. Prison had robbed me of my freedom but not my memories, and now I felt some enemies of the struggle had tried to rob me of even those. (Mandela, 2013: 644–645)

FREEDOM

These are the last words of Mandela's autobiography. They speak for themselves.

It was during those long and lonely years that my hunger for the freedom of my own people became a hunger for the freedom of all people, white and black. I knew as well as I knew anything that the oppressor must be liberated just as surely as the oppressed. A man who takes away another man's freedom is a prisoner of hatred, he is locked behind the bars of prejudice and narrow-mindedness. I am not truly free if I am taking away someone else's freedom, just as surely as I am not free when my freedom is taken from me. The oppressed and the oppressor alike are robbed of their humanity.

When I walked out of prison, that was my mission, to liberate the oppressed and the oppressor both. Some say that has now been achieved. But I know that that is not the case. The truth is that we are not yet free; we have merely achieved the freedom to be free, the right not to be oppressed. (Mandela, 2013: 751)

CONCLUSION: '*THE LONG WALK CONTINUES*'

After leaving the heterotope in 1990, Mandela's long walk continues:

Once outside, the abstract became concrete and tangible; the dust and the noise and the blood became real. Every day, during the process of the negotiations, he rubbed shoulders with men and women, some of whom were sponsors of the carnage. They smiled at him, deferring to age and something unquantifiable in a man who had emerged from incarceration unbowed and in whose eyes they saw reflected the enormity of their deeds. In the eyes of his own people, he saw the pain of trying to make sense of it all. (Mandela and Langa, 2017: 287)

In times of coronavirus it is worth remembering Mandela's words at the Youth Forum on HIV/AIDS at the University of the Witwatersrand in Johannesburg on 22 September 2003:

As important as medicine and treatment are, people living with HIV/ AIDS need even more importantly love, support and compassion.

HIV/AIDS seriously threatens our future. But I want to leave you with a message of hope and positiveness. The fight against HIV/ AIDS offers us the opportunity to once more reach deeply into that

pool of humane caring and human compassion that characterised us as a people in our struggle against Apartheid. Once more, our people from all backgrounds, genders or age groups shall rally to a call to come together to save our nation from destruction.

And you, the youth, shall give the lead! (Mandela, 2003)

'The long walk continues!' is the last sentence of Mandela's speech at the final sitting of the first democratically elected parliament, Houses of Parliament, Cape Town, 26 March 1999 (Mandela and Langa, 2017: 293).

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In conversation with Nelson Mandela on effective reading of newspapers

Dr Coetzee Bester

INTRODUCTION

This contribution to *Nelson Mandela: A Reader in Information Ethics* is not an academic article. It was agreed that I should recount a personal visit to Mr Mandela and reflect on the lessons related to information ethics that were learnt from him. Information ethics, inter alia, relates to media and information literacy as well as information for development, information accessibility and multilingualism. This reflection therefore has a number of important subtitles; one on the importance of newspapers, another on multi-lingualism and maybe another on access to information for people in their personal and group development.

BACKGROUND

It was early June 2003 and I was on my way to conduct a workshop on practical multi-party democracy in Maputo, Mozambique. This is also the place where Mr Mandela and Graça Machel had their house at the sea. At the last minute, due to the volume of the workshop material, I decided on that Sunday not to fly from Johannesburg to Maputo but to travel the 650km by road. This road reaches Mbombela and goes via the Lebombo Border post to Maputo – about a 7-hour drive.

The Maputo workshop was on democracy in Africa and some preparation for growth in multi-party democracy in Mozambique. On my

way, I took time to also reflect on lessons learnt from Mr Nelson Mandela – as prisoner, as politician, as South African president and as internationally recognised statesman. As I entered Maputo, at the spur of the moment I decided to turn onto the street where the Mandela home was situated. I had served in the 1994 election campaign of President F.W. de Klerk and, as such, regularly interacted with Mr Mandela's campaign team. Following the election, I served from 1994 to 1999 as a Member of Parliament with President Mandela as the President of the Republic of South Africa. I had the privilege to meet him several times – both at political and social events.

Reaching the impressive Maputo house, I noticed from the number of on-duty security staff that the Mandela family was present. I parked and wrote a note to wish him well. I gave the note with my name and mobile number to the security officer and left. It was about 14:00 in the afternoon.

About three minutes later, I received a call from Mr Mandela personally, addressing me in my home language, Afrikaans. He invited me for coffee. It is important to notice that neither I nor Mr Mandela knew that we were going to meet that day – and we both had about ten minute's notice of our unplanned reuniting.

On arrival I was directed into the house and guided to the study where Mr Mandela was sitting comfortably. I noticed that he was reading a newspaper called *Rapport*. *Rapport* is an Afrikaans newspaper published in South Africa on Sundays. Afrikaans is one of the indigenous languages of South Africa and seen by many as the language of the oppressor during apartheid. The perception is that Afrikaans is mostly spoken by so-called Afrikaners. The term *Afrikaners* translated into English will be *Africans*. From a racial-base thinking, this would not be practical as the term *Afrikaners* refers to mostly white people while the term *Africans* popularly refers to black people.

Mr Mandela greeted and addressed me in Afrikaans and we ordered coffee from a kind woman. Coffee in the afternoon was, according to Mr Mandela, a habit that he learnt from Afrikaners while he was in prison and, up to that time, he kept his daily afternoon-coffee tradition.

Madiba – Mandela's clan name and a name used as a sign of respect – and I discussed many interesting topics and we enjoyed a few cups of coffee. He was interested in the purpose of my visit to Maputo and we reflected on the political developments in South Africa, Mozambique, Africa and the world.

I already referred to the fact that, when I entered his study, he was

reading an Afrikaans newspaper. A newspaper from another country in a foreign language published by people who he had enough reason not to like. From this four-hour conversation, I took two lessons that are relevant to this publication.

LESSON ONE

During our discussions, the role of newspapers as sources of information was mentioned regularly. Writing these words close to 20 years later, I fully understand that we should not make direct conclusions between the 2003 newspapers and the 2021 digital social media – but some lessons are still valid for both times, both forms of communication and both sources of information.

According to Mr Mandela, newspapers are important sources of information – globally and locally. They are reflections of what is happening in communities by addressing daily challenges, needs and achievements. In more than mere reflections, newspapers provide a platform for different leaders to make announcements, share their views and policies and give guidance on matters of importance for their communities. This is true for global leaders using global media houses and for local leaders using local newspapers to carry their views.

He shared his views on the value of the newspaper as an information platform by indicating the different sections of newspapers: political news, economic and business news as well as job advertisements, news on safety and security and crime, news on health, education as well as news on sport and culture. He explained how one newspaper, if you read it holistically, is much more *about* a community than *for* a community. The latter is obviously more focused on the immediate and the short-term, day-to-day news but if you read a newspaper to learn more about the community, it becomes a fascinating source of information. According to Mr Mandela, old newspapers hold important perspectives and information. (To fully understand the role newspapers had in his life, readers are welcome to refer to Mr Mandela's autobiography, *Long Walk to Freedom* written by himself and first published in 1994 by Little Brown & Co. In addition to his political views and values, the book profiles his early life, coming of age, education and 27 years in prison.)

Before, and following the time after our discussions, I noticed some supportive reflections that he also shared on different international podiums. I wish to highlight a few as these are quoted in his own words:

'It can be said that there are four basic and primary things that the mass of people in a society wish for: to live in a safe environment, to be able to work and provide for themselves, to have access to good public health and to have sound educational opportunities for their children.' – From a speech at the opening of the Oprah Winfrey Leadership Academy, 2 January 2007

'A critical, independent and investigative press is the lifeblood of any democracy. The press must be free from state interference. It must have the economic strength to stand up to the blandishments of government officials. It must have sufficient independence from vested interests to be bold and inquiring without fear or favour. It must enjoy the protection of the constitution, so that it can protect our rights as citizens.' – International Press Institute Congress, 1994

'No one is born hating another person because of the color of his skin, or his background, or his religion. People must learn to hate, and if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite.' – *Long Walk to Freedom*, 1994

'I was called a terrorist yesterday, but when I came out of jail, many people embraced me, including my enemies, and that is what I normally tell other people who say those who are struggling for liberation in their country are terrorists. I tell them that I was also a terrorist yesterday, but, today, I am admired by the very people who said I was one.' – Larry King Live, 16 May 2000

'It is never my custom to use words lightly. If twenty-seven years in prison have done anything to us, it was to use the silence of solitude to make us understand how precious words are and how real speech is in its impact on the way people live and die.' – International AIDS conference, 2000

'When the history of our times is written, will we be remembered as the generation that turned our backs in a moment of global crisis or will it be recorded that we did the right thing?' –Tromso, Norway, 2005

LESSON 2

Then my question: 'Madiba, why all this effort to read *Rapport*?'

He took some time and then his answer left me ashamed. He addressed

me personally on how he met various Afrikaners through the Afrikaans newspaper. He never met them in person but he could recognise their faces from photos and understand their argument from the articles.

> You know Coetzee, bekend maak bemind (this is a variation of an Afrikaans proverb that means that the more you know a person, the more you could appreciate them) – and I learned to appreciate many Afrikaners because of my reading of this Afrikaans newspaper. During the political transition in our country, I used the Afrikaans newspaper to also learn more about Afrikaner arguments and issues and their problems and their fear for losing their traditions, their religions and their language. These were matters I remembered while I was president – not only to respect the position of the Afrikaner, but also the dreams and anxieties of all minority groups that I met all over the world.

While understanding that Mr Mandela was also a politician, his view on understanding the ethics and dedication and language of a nation was equally interesting. He explained to me that he hoped to make a difference in the world. Towards this aim, he had to understand global politics. This, according to him, was only possible if he understood the political situation on the African continent. He considered the challenges and desires as well as the information on the vast natural resources of the continent, to influence the ethics and the behaviour of local and international communities towards Africa. His explanation made a lot of sense to me.

Then, towards understanding African politics, one must understand the South African political situation. According to him, South Africa was an overwhelmingly strong influencing factor in Africa. This strength came from both a strong hate for apartheid and a strong aspiration and wish to achieve the levels of political and economic development that South Africa had reached. He explained that South Africa can and must contribute towards development in Africa. He then asked questions about my political workshop in Maputo and, while discussing the opportunity, he made some very valuable contributions that I shared with the workshop in his name. Mozambique had a relatively peaceful number of years that followed.

He then continued to explain his personal global influencing model and said that in order to understand the South African political and economic landscape you must understand and respect the views, values, ethics and skills of the Afrikaner … 'And that is why I read your Afrikaans

newspaper, every week'. He revealed that he did not know the Afrikaner by living amongst them, but by understanding their language and by reading their newspapers. Then his question to me: 'tell me, Coetzee, how many newspapers from African communities do you read every week?' I was ashamed. We both laughed and I made a promise that I still keep.

FOLLOW UP QUESTIONS AND CONCLUSIONS

Reflecting on this conversation 18 years later and from a 2021 perspective, I hope that one could apply the Mandela wisdom in addressing some of the current challenges. These reflections could assist in guiding some of the following dilemmas:

- How do we read and use newspapers as a source of information to teach us more from other communities, their ethics, their motivation, their challenges as well as their fears and their dreams?
- Is access to information a basic right, considering how newspapers could provide information in a relatively cheap format?
- How do we evaluate fake news and lies that do not inform communities but distribute confusion and fear?
- What are the responsibilities and roles of professional journalists and informal citizen journalists?
- How do we manage the transformation of news platforms – both in the format of newspapers and electronic social media?

As I mentioned, Mr Nelson Mandela was not a trained information ethics scientist. He, however, had the ability to reflect on matters related to information ethics from a special personal perspective. A perspective that was not only relevant for his time, but also for the period of social media two decades later. From a wider perspective, he laid the foundation for critical thinking on various integrated matters that are even more relevant in the so-called digital and information societies.

Let there be justice for all, let there be peace for all and let freedom reign: A reflection on President Mandela's inaugural address from a social justice perspective

Prof. Johannes Britz[1]

INTRODUCTION

'The sun will be setting permanently over the old South Africa …' It was a warm Saturday evening in mid-January and the year was 1990. I received a phone call from one of my friends who had close connections at the time with members of President de Klerk's cabinet. He told me that Nelson Mandela would be released from prison and the ANC would be unbanned. A day to rejoice and a day we thought might never happen. It did happen – and the rest is history. President de Klerk made the announcement on 2 February and Nelson Mandela was released from prison on 11 February. The sun had indeed set over the old South Africa and a new day was awaiting all South Africans – free and liberated from apartheid and, in the words of President Mandela, en route out of the 'valley of darkness' to become a 'rainbow nation' where the 'sun shall never set' (Mandela, 2004).

But how would this new South Africa take shape? What would our future look like and how were we, as South Africans, going to deal with a past that

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1   A special word of thanks to my friend and colleague Prof. Peter Lor for his valuable input.

had been shaped for many years by emotions such as anger, hate, fear and anxiety? Would we be able to avoid an outright race-based civil war? At the point of his release, many white South Africans still believed, based on years of indoctrination by the national media, that Nelson Mandela was a 'terrorist and communist'. Would their fear, and sense of surrender, lead them to the taking up of arms? Would there be an attempt at a military coup to ensure that the white minority system stayed in power? For black South Africans, the release of Nelson Mandela from prison symbolised their own freedom and liberation from an oppressive system. A system hated by many, so as to lead to a cry by some for revenge and the punishment of those who were responsible for the implementation and execution of apartheid.

And now we are looking back, nearly 30 years later. It was indeed a miracle, and as President Mandela said at the time: 'The sun shall never set on so *glorious a human achievement'* (own emphasis).

How was this 'glorious human achievement' possible? Credit of course needs to go to President de Klerk, and his government, for giving up power and for embracing transitional change. But there is no doubt in my mind that most credit needs to go to President Mandela – after 27 years in jail – for facilitating a just process for non-violent change and transformation to a non-racial democracy.

In this chapter, I argue that President Mandela's inaugural address envisioned a future South Africa that would be firmly rooted in social justice. A rainbow nation where all would be equal, and where the fundamental freedom, basic human rights and human dignity would be guaranteed and protected: a 'new-born liberty' where there would be 'justice for all, peace for all and where freedom would reign' (Mandela, 1994).

The previous paragraph, articulating President Mandela's vision for a new South Africa that is rooted in social justice, therefore provides the impetus for this chapter – to reflect from a social justice perspective on the most important inaugural address in our history.

This chapter is organised in two main sections. Firstly, I discuss the very notion of social justice, not only in terms of its definition, but also the core moral principles that it represents, the link between social justice and human dignity, basic rights and fundamental freedom. Different categories of social justice are also briefly discussed. This first section of the chapter is based on my research (Britz, 2006). In the second part, the focus is on the inaugural address. I unpack and analyse the address, focusing on how

President Mandela used social justice as the key moral tool for building a new South Africa – not only in terms of our freedom, dignity and human rights, but also with regards to reconciliation and transformation.

PART 1: DEFINING JUSTICE

Core principles of justice

Justice can be defined as giving a person or a group what they deserve. It is deeply rooted in the philosophical traditions of the Greeks, notably by Plato and Aristotle, who viewed it as one of the most important virtues regulating human moral behaviour within a societal setting. It is within this context that the well-known American philosopher John Rawls (1973: 5) remarks that 'justice is the first virtue of social institutions just as truth is for systems of thought'. He further argues that justice is an important virtue for any social institution and as such should and must be used as a normative instrument in the evaluation and assessment of any institution.

Three basic principles of justice can be distinguished. These are:
- 'All people must be treated equitably and according to the same norms.
- Every person ought to get which is due to them – be it good or bad.
- Inequalities between people and societies need to be recognized allowing for the justification of different treatment based on a set of norms' (Britz, 2006: 128).

Based on these three basic principles, I argue that social justice not only creates a collective consciousness within a community regarding injustices, but, as a foundational and universal social virtue, it informs the core of those societal and individual norms and values that guide the fair and equitable treatment of all people. It is foundational to the protection of the basic rights of all humanity. As a positive and negative virtue, it furthermore prevents conflict in society, contributes to the development of mutual respect and recognition of human dignity and ensures the active elimination of inequalities. Justice has also a punitive and restrictive dimension, focusing on the punishment of the guilty and the restoration of past injustices (Britz, 2006).

Social justice therefore provides a common moral foundation that enables us to use John Rawls's concept, a 'basic structure' in a society to

define rights, duties and moral obligations towards one another and our planet. As such, and when applied correctly, it prevents harm and enhances the dignity and freedom of all peoples (Britz, 2006).

It is important to provide more context to the notion of 'when applied correctly'. For social justice to become the *social* justice (own emphasis) there must be a common voice, a common point of view, and a mutual understanding of what is meant by social justice. The development of such a common point of view should be based on the three basic principles outlined above and the so-called 'blindness of injustices' (Lötter, 2000: 191) must be avoided, where there is an assumption that a particular social arrangement cannot be changed due to religion or societal setting such as that 'the poor will always be with us'.

SOCIAL JUSTICE AND HUMAN RIGHTS

I mentioned in the previous paragraphs that justice provides the basic structure for a society to define rights and duties. There is therefore a clear link between social justice and human rights, and as such I argue that human rights can be seen as the legal articulation of the following core principles of social justice:

- *The recognition of the equal value of all people*. Discrimination in any form is therefore inadmissible.
- *The safeguarding of human integrity and dignity*. Harm against human integrity is therefore inadmissible.
- *The protection of human freedom*. Interfering or limiting freedom that can impair human development and self-determination is inadmissible (Hamelink, 2000: 62).

Social justice is therefore the core norm that allows people the moral right to claim their basic human rights, but it also implies the duty to respect the rights of others. Social justice therefore demands from society to not only guarantee these rights, but to protect them.

Social justice and human freedom

Human freedom has long been regarded as one of our highest values and John Rawls (1971) correctly argues that social justice is the moral tool for ensuring the protection and enabling of our right to freedom.

Fundamental to freedom is the ability to make choices. This is known as formal freedom (Britz, 2006). But then there is also 'what' we choose – the content. This is known as material freedom and goes back to Immanuel Kant (Hodgson, 2010). Material freedom can furthermore be divided into positive and negative freedom, the one corresponding with the other. The British philosopher Isaiah Berlin (1958) held a famous inaugural address at the University of Oxford in 1958 with the title 'Two concepts of liberty' where he extensively deliberated on positive and negative liberty (he did not use the concept 'freedom'). Negative freedom is expressed as 'freedom from' and emphasises the negative side of our freedom, according to which individuals have the freedom from obstacles or barriers that can limit or restrict their freedom. It is a form of freedom that deals more with the individual. Examples of negative freedom are 'freedom from' political oppression, 'freedom from' intrusion into the private lives of citizens and 'freedom from' censorship. Negative freedom is therefore the absence of those restrictive actions and structures that inhibit our freedoms that are instrumental in achieving our human wellbeing (Sen, 1976).

The counterpart of negative freedom (for example, absence of censorship and non-intrusion in our private lives) is positive freedom, which is also referred to as 'freedom to'. This form of freedom is the possibility of acting and, whereas negative freedom focuses more on the individual, it has a more collective/social interpretation and application. It is normally a discourse that takes place within the socio/religious and political philosophical realms dealing not only with the questions of our 'free will' and human autonomy, but the ability and freedom to participate in a free and fair manner in democratic processes. It is concerned with having access to information to make informed decisions and the ability to exercise the right to freedom of expression. Such a form of 'freedom to' is only possible when there is a negative 'freedom from' in place – in this case, freedom from those restrictions that limit or restrict our ability to make information choices, to express ourselves, and to participate in a meaningful manner in a democracy. In other words, negative freedom protects our rights, and positive freedom allows us to exercise those rights.

I therefore argue that the protection of our freedom (freedom from) has no, or a very limited, meaning, if it is also not an enabling right (freedom to).

Lastly: positive and negative freedom assign to both the individual and society a level of legal responsibility and moral accountability (Kant, 1997). As individuals we have the responsibility to exercise our 'freedom to' in such a manner that we respect the freedom of others. Freedom of expression, for example, does not give me the 'right' to defame others. Society in the same way has the responsibility to ensure that everyone's right to freedom (both in the negative and positive way) is protected.

CATEGORIES OF SOCIAL JUSTICE

Different categories of social justice can be distinguished. These are: justice as recognition, justice as reciprocity, justice as participation and enablement, justice as distribution, justice as contribution, and justice as retribution, restoration and transformation (Britz, 2006). These categories are briefly discussed.

Justice as recognition

Justice as recognition recognises that all human beings are of equal moral value, and as such should be treated with equal respect – both in terms of their humanity and their autonomy (Lötter, 2000: 193).

Justice as reciprocity

This form of justice deals with the 'nature and scope and content of fair terms of cooperation in the personal, social and institutional levels' (Lötter, 2000: 224). It is also known as commutative justice, and it requires 'fundamental fairness in all agreements and exchanges between individuals or social groups' (National Conference of Catholic Bishops, 1997: 42). This form of justice therefore ensures that there is fairness in exchange relationships, and that the same norms and rules apply in the fulfillment of contractual agreements (Britz, 2006).

Justice as participation and enablement

According to Bedford-Ströhm (1991) this form of justice refers to the creation of equal opportunities. It has both a negative and positive application. From a negative perspective it focuses on the elimination of inequalities in society (e.g. the eradication of poverty) and positively

it ensures the creation of equal opportunities for all to participate in a meaningful way in society, allowing them the opportunity to become who they want to be (Sen, 1999). Participatory justice also refers to the meaningful participation of society when decisions are being made that affects them – in other words 'participatory democracy' (Manin, 1995). This category of justice is closely related to what Young (1990) calls justice as enablement, according to which society has a moral obligation to allow everyone the equal opportunity to make choices to fulfill their human wellbeing.

Justice as distribution

This form of justice deals primarily with the fair distribution of benefits and burdens in a society (Britz, 2006). The Greek philosopher Aristotle is known for his philosophical reflections on this form of justice and the National Conference of Catholic Bishops (1997) describes it as 'the fair distribution of income, wealth and power in society with specific reference to the satisfaction of basic needs'. Distributive justice sets key principles in a society, allowing for fairness in the distribution of both the benefits and burdens. Rawls (1973) correctly argues that fairness in distribution does not imply equal distribution since distribution of benefits and burdens must also improve the lives and overall wellbeing of the poor and marginalised. Rawls (1973) refers to this as the 'difference principle', allowing for an unequal distribution on the condition that it will benefit the poor.

Justice as contribution

This form of justice is closely related to distributive justice and relates to the manner in which we all, in terms of our talents and gifts, have a moral obligation to make a positive contribution to the overall wellbeing of a society (Britz, 2006). Sen (1999) would further argue that society has a moral obligation to allow individuals the equal opportunity to make a contribution to society (D'Agostini, 2017). A similar argument is made by Timmerman (2018) regarding 'meaningful work' and the positive contribution that a society must make, allowing individuals to develop their skills and to make a meaningful contribution towards society.

Justice as retribution, restoration and transformation

Retributive justice is also referred to as punishable and transformational

justice. This form of justice is based on the idea that the application of justice would be meaningless without an enforcement/punishment component. Lötter (2000) points out that it does not only refer to the fair and just punishment of the guilty, but also to how to transform and change existing practices and institutions as well as human behaviour. It is therefore possible to distinguish between a positive and negative side of retributive justice. The negative side focuses on blame and the punishment of the guilty – the idea that justice must prevail even if it means the end of the world – reflecting the Latin proverb: *fiat iustitia, pereat mundus*. The positive side of retributive justice focuses on transformation, healing and reconciliation. This positive application of retributive justice is also known as restorative justice and aims at getting offenders to not only understand their wrongful actions, but to take responsibility for the harm they have caused, ask for forgiveness and redeem themselves. It also allows for victims to participate in this process of healing and to have a voice and the opportunity to forgive and to build a new future (Sherman and Strang, 2007). Braithwaite (2002) correctly points out that restorative justice is not only about the legal issues per se (as is punishable or retributive justice) but about moral values and human relationships.

In summary, it can be stated that justice is the most important normative instrument that can be used to evaluate societies. Based on the three principles identified, justice not only recognises the human dignity, basic rights and fundamental freedom of all, but also defines the fair and equitable treatment of all people, irrespective of their background, belief, gender or race.

PART 2: THE INAUGURAL ADDRESS AND SOCIAL JUSTICE

'LET THERE BE JUSTICE FOR ALL . . .' – A KEY THEME FOR PRESIDENT MANDELA

Having defined justice and elaborated on the principles, different categories and applications thereof, I turn my focus in this section of the chapter to President Mandela's inaugural address to analyse it from my description of social justice. Due to the importance of the inaugural address, I quote it in full and, in the discussion, I focus on the following issues:

- social justice and how it is viewed by President Mandela as the moral principle underlying his vision for a new South Africa;
- the link he is deliberately making between justice, human rights, and our freedom; and
- his emphasis on restorative justice to reconcile all South Africans.

The inaugural address

Your Majesties, Your Highnesses, Distinguished Guests, Comrades and Friends:

Today, all of us do, by our presence here, and by our celebrations in other parts of our country and the world, confer glory and hope to newborn liberty. Out of the experience of an extraordinary human disaster that lasted too long, must be born a society of which all humanity will be proud.

Our daily deeds as ordinary South Africans must produce an actual South African reality that will reinforce humanity's belief in justice, strengthen its confidence in the nobility of the human soul and sustain all our hopes for a glorious life for all.

All this we owe both to ourselves and to the peoples of the world who are so well represented here today. To my compatriots, I have no hesitation in saying that each one of us is as intimately attached to the soil of this beautiful country as are the famous jacaranda trees of Pretoria and the mimosa trees of the bushveld.

Each time one of us touches the soil of this land, we feel a sense of personal renewal. The national mood changes as the seasons change. We are moved by a sense of joy and exhilaration when the grass turns green and the flowers bloom.

That spiritual and physical oneness we all share with this common homeland explains the depth of the pain we all carried in our hearts as we saw our country tear itself apart in a terrible conflict, and as we saw it spurned, outlawed and isolated by the peoples of the world, precisely because it has become the universal base of the pernicious ideology and practice of racism and racial oppression.

We, the people of South Africa, feel fulfilled that humanity has taken us back into its bosom, that we, who were outlaws not so long ago, have today been given the rare privilege to be host to the nations of the world on our own soil.

We thank all our distinguished international guests for having come

to take possession with the people of our country of what is, after all, a common victory for justice, for peace, for human dignity.

We trust that you will continue to stand by us as we tackle the challenges of building peace, prosperity, non-sexism, non-racialism and democracy. We deeply appreciate the role that the masses of our people and their political mass democratic, religious, women, youth, business, traditional and other leaders have played to bring about this conclusion. Not least among them is my Second Deputy President, the Honourable F.W. de Klerk.

We would also like to pay tribute to our security forces, in all their ranks, for the distinguished role they have played in securing our first democratic elections and the transition to democracy, from blood-thirsty forces which still refuse to see the light.

The time for the healing of the wounds has come. The moment to bridge the chasms that divide us has come. The time to build is upon us. We have, at last, achieved our political emancipation. We pledge ourselves to liberate all our people from the continuing bondage of poverty, deprivation, suffering, gender and other discrimination.

We succeeded to take our last steps to freedom in conditions of relative peace. We commit ourselves to the construction of a complete, just and lasting peace. We have triumphed in the effort to implant hope in the breasts of the millions of our people. We enter into a covenant that we shall build the society in which all South Africans, both black and white, will be able to walk tall, without any fear in their hearts, assured of their inalienable right to human dignity – a rainbow nation at peace with itself and the world.

As a token of its commitment to the renewal of our country, the new Interim Government of National Unity will, as a matter of urgency, address the issue of amnesty for various categories of our people who are currently serving terms of imprisonment.

We dedicate this day to all the heroes and heroines in this country and the rest of the world who sacrificed in many ways and surrendered their lives so that we could be free.

Their dreams have become reality. Freedom is their reward.

We are both humbled and elevated by the honour and privilege that you, the people of South Africa, have bestowed on us, as the first President of a united, democratic, non-racial and non-sexist South Africa, to lead our country out of the valley of darkness.

We understand it still that there is no easy road to freedom. We know it well that none of us acting alone can achieve success. We must therefore act together as a united people, for national reconciliation, for nation building, for the birth of a new world.

Let there be justice for all. Let there be peace for all. Let there be work, bread, water and salt for all. Let each know that for each the body, the mind and the soul have been freed to fulfill themselves.

Never, never and never again shall it be that this beautiful land will again experience the oppression of one by another and suffer the indignity of being the skunk of the world.

Let freedom reign.

The sun shall never set on so glorious a human achievement! (Mandela, 1994)

ENTERING A COVENANT FOUNDED IN SOCIAL JUSTICE

It is clear from this 11-minute-long inaugural speech by President Mandela that social justice is the underlying moral principle. The word 'justice' is used in numerous contexts to define our future and to articulate how we will deal with our past. I argue that his reference that 'all South Africans (black and white) will enter a covenant where we will walk tall, with no fear, assured of our human dignity' aligns with Rawls's notion that social justice is the first virtue of social institutions and as such should be used as a normative instrument to assess a society (Rawls, 1973: 5).

President Mandela made it clear that we are entering a covenant founded on social justice where:
• our human dignity will be recognised;
• our human freedom be guaranteed; and
• where we will all be treated equitably.

The three principles of social justice identified earlier are therefore applicable. President Mandela, in his statement that all South Africans will be liberated from poverty, deprivation, suffering, gender and other discrimination, made it clear that all South Africans will be treated equitably and according to the same norms (principle one). These statements are expressions of justice as recognition and commutative justice. He also addressed those who fought for liberation – they will receive what is due

to them – their freedom (principle two). The third principle, dealing with inequalities between people, is also addressed. The poor and previously marginalised and oppressed will have equal access to the wealth of resources in the country so that there will be 'work, bread, water and salt for all'. This emphasis on equal opportunities for all and addressing past inequalities in society underscores those principles articulated in justice as participation as well as distributive and contributive justice.

It is therefore clear that the president passionately believed in a society founded on justice, where people are valued, and their human dignity is recognised and protected. We are indeed entering a covenant founded in social justice.

'An inalienable right to human dignity' – social justice and our basic rights

The recognition of our basic human rights is furthermore at the core of his speech. He made it clear that there will be no more discrimination, that South Africans will live without 'fear in their hearts' and that there will be freedom and peace. He also assured the new nation of their 'inalienable right to human dignity'.

The emphasis on the protection of our human dignity and the recognition of our autonomy laid the foundation for the development of the South African Bill of Rights – the first in the more than 300 years since colonisation (De Waal, Currie, and Erasmus, 2001). It brought an end to race-based civil rights and introduced a set of core basic human rights to safeguard against the very fears (of discrimination and oppression) that President Mandela referred to in his inaugural address. The introduction of the Bill of Rights and the move away from a parliamentary sovereignty to a doctrine of constitutional supremacy can be seen as the most significant legal legacy of President Mandela's vision for a new South Africa – in his own words: 'Never, never and never again shall it be that this beautiful land will again experience the oppression of one by another and suffer the indignity of being the skunk of the world'.

'Let freedom reign' – the reward for all South Africans

President Mandela's belief in a rainbow nation where there is justice is furthermore firmly rooted in the notion of freedom. Not only freedom as a reward for the struggle and victory against oppression and discrimination,

but also freedom as an acknowledgement of the nobility of the human mind, soul and body. In his own words: 'Let each know that for each the body, the mind and the soul have been freed to fulfill themselves'. True freedom is therefore the ability to make choices to become who we want to be.

His 'long walk to freedom' also puts us on a 'road to freedom' (Mandela, 1994). A road that is 'cemented' in both formal and material freedom. Freed from oppression and discrimination, all South Africans had, for the first time in history, the ability to make a democratic choice – to cast a vote on 27 April 1994. Not only were we freed to make choices (formal freedom), but we could also choose who to vote for, where to live and the freedom to express ourselves (material freedom). This positive, material freedom implied that we are free from oppression, intrusion and censorship – a negative freedom that ensures the absence of those restrictions and structures that inhibit our freedom to self-fulfillment. To quote President Mandela again: 'Let freedom reign' because there will 'never, never and never again' be oppression and suffering.

REVENGE AND RETALIATION OR RESTORATION AND TRANSFORMATION?

President Mandela addressed the question of restorative and retributive justice. How will the new South Africa deal with the victims of injustice as well as with those who are responsible for inflicting harm on the victims? There are different ways of dealing with past injustices and the country was awaiting on 10 May 1994 for the first democratically elected president to address this issue. Having spent 27 years in jail and listening to those who wanted revenge and the punishment of those who were responsible for apartheid, President Mandela could have put the focus primarily on retaliation, thereby playing on emotions such as hate, bitterness, anger and fear.

But there was no bitterness, no hate, no anger. In a reconciliatory tone, he reached out to his oppressors and those who had put him in jail – he gave credit to, and thanked, the former President de Klerk and his security forces for securing the first democratic elections. To his fellow South Africans, he said: 'We must therefore act together as a united people, for national reconciliation, for nation building, for the birth of a new nation. Let there be justice for all. Let there be peace for all.'

As a true statesman, and as a human being driven by a conviction of forgiveness, freedom and restorative justice, he therefore laid in his

speech the moral foundation for reconciliation, and opened the path to transforming and restoring the South African society and its institutions in such a way that it became nearly impossible to repeat the injustices of the past, lighting a way to lead it 'out of the valley of darkness'. It would be a future not based on punishment and revenge, but driven by peace and reconciliation.

As a sign of his commitment to the process of national reconciliation, he announced in his inaugural address that, as a matter of urgency, the Interim Government of National Unity would address the issue of amnesty. It was indeed a matter of urgency for the president because the Truth and Reconciliation Commission (TRC) was formed in 1995 when President Mandela signed the legislation, the Promotion of National Unity and Reconciliation Act 34 of 1995 that established the TRC. The commission's focus was on national reconciliation through a process of transparent dialogue between the oppressor and the oppressed. The work of the commission allowed for the first time for all South Africans to learn about the atrocities committed during the decades of the struggle against apartheid – shining a light on the 'valley of darkness' and a troubled past to move forward and build a new nation founded on justice and peace.

CONCLUSION – A WALK TO FREEDOM AND A COVENANT OF JUSTICE

In this essay I have underlined the congruence between President Mandela's vision for South Africa and the basic principles of social justice. It is not known whether Mandela ever read Rawls or most of the other political philosophers cited here. Given his circumstances, this is unlikely. Rather, his inauguration speech testifies to a leader of deep humanity, tried and tested in the struggle for the liberation of his people, with the wisdom to visualise a peaceful and prosperous future for his country based on a concept of social justice born of struggle.

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Information and knowledge access for social justice: Perspectives from Mandela's *Long Walk to Freedom*

Prof. Dennis Ngong Ocholla

INTRODUCTION

Access to information and knowledge has been declared a fundamental human right and an essential social justice component. There are many perspectives from which to recognise and acknowledge information and knowledge in modern society. In the first instance, we can approach it from an applied ethics perspective. From this viewpoint, I recognise four ethical theories: virtue, deontology, rights and pragmatism/utilitarianism. Access to information and knowledge is a human right and is expressed in deontology or rights-based ethical theories. These theories have shaped us and our behaviour in relation to ourselves, others and the environment for many years. In the second instance, information and knowledge access can be approached from international interventions, such as the Universal Declaration on Human Rights (UNDHR), which is widely known to propound and promote information and knowledge access. Access to information/knowledge has also strongly featured at the World Summit of Information Society (WSIS, 2016) 'aimed at addressing the issues raised by information and communication technologies (ICTs) through a structured and inclusive approach at the national, regional and international levels', and most recently the Sustainable Development Goals (SDGs) (UN, 2015) as well.

In the third instance, individual states and governments have also included access to information/knowledge as a human right and social justice in their constitutions and legislation to guide and protect this important resource. Thus, increasingly, information and knowledge are considered to be a means of production alongside land, labour, capital and technology. Such interventions are expressed in the rights to literacy, education, expression, association and other means that promote such access. Lastly, publications in many forms, particularly those originating from scholarly research, have been dedicated to the topic. Overwhelmingly, the studies consider access to information and knowledge to be an essential part of social justice. For instance, Lor and Britz (2007: 1) question 'whether an information society and, more critically, a knowledge society can develop in the absence of freedom of access to information, freedom of expression and freedom to access the digital economy'. I argue that *Long Walk to Freedom* combines narratives from many perspectives that echo the four.

Long Walk to Freedom (Mandela, 1994) is autobiographical literature rich in information and knowledge access issues and challenges. The issues and challenges reflect the parallel contributions of indigenous knowledge and modern or Western knowledge to the intellectual and spiritual growth of Nelson Mandela.

This chapter will expand on the four approaches to information and knowledge access mentioned previously, discuss the topics from the perspective of Mandela's *Long Walk to Freedom*, and end with concluding remarks. I argue that the information and knowledge acquired by Mandela was shaped by access to both indigenous and modern or Western knowledge within the dark socio-political and economic turbulence or climate of the time.

THEORY AND FRAMEWORKS

This section will highlight the classical ethical theories that I believe relate to access to information and knowledge in Mandela's autobiography, *Long Walk to Freedom*. An interplay between Mandela's individuality, ethical theories, and information and knowledge access is reflected upon.

Theory

Ethical (classical) theories are essential to understanding and interpreting access to information/knowledge. These are often bundled into three or four theories (Ocholla et al., 2013). Britz (2013:2), referring to the *Encyclopaedia of Philosophy*, distinguishes between three ethical theories: virtue theories, duty theories and consequentialist theories.

Virtue is considered to be the oldest of the ethical theories. It originated in Ancient Greece and is associated with the philosophical paradigms of Plato and Aristotle. Virtue stresses the development of good character, habits or virtues in individuals in a society. Signifiers of virtue are mainly positive, such as wisdom, courage, honesty, caring, sincerity/trust, reliability, fairness, integrity and justice. Good conduct or virtues can be acquired by learning. There is evidence in *Long Walk to Freedom* that indigenous and Western education played a key role in the development of Mandela's virtues. Virtuous individuals are usually respected in a society/community because they are typically considered to be reliable and honest. As in all cases with theories, virtuousness is not judged the same way. Contradictions do occur with positive behavioural dispositions in real life when duty supersedes virtue or when the consequence/outcome of a behaviour overrides virtue. I have reflected on situations when virtue becomes a dilemma at home, work and in social environments; when vicious contradictions occur between law, ethics and morals, and during the execution of ethical behaviours in an information environment (Ocholla, 2009).

The second ethical theory is deontology/duty, where duty is linked to the Greek word 'Deon', meaning duty or obligation to others by protecting and caring for them, such as when we care for our families. This theory is typically associated with the scholarship of British philosopher John Locke and German philosopher Immanuel Kant (in Kerstein, 2019: np), who, for instance, asserts that 'our most fundamental duty is never to treat people merely as a means to an end but as an end itself', which is widely called 'categorical imperative'. Kerstein (2019), in *Stanford Encyclopaedia of Philosophy,* discusses this paradigm in greater detail, where treating others as a means to an end is fundamentally/morally wrong but quite prevalent in society, even when some actions are well intended.

Duty goes hand-in-hand with rights. A right can be defined as the claim we have towards others not to harm or kill us. This implies that the right I have becomes the duty of others. In other words, right-based theory propounds that we have some rights merely by virtue of being humans.

For example, our right to information and knowledge becomes the duty or obligation of others to provide. The right concept can also be quite controversial, as reflected in Jeremy Waldron's (1981) article 'A Right to Do Wrong'. He writes that 'it seems unavoidable that if we take the idea of moral rights seriously, then we have to countenance the possibility that an individual may have a moral right to do something that is from a moral point of view, wrong' (Waldron, 1981: 1) and gives several examples where such an ethical dilemma occurs in how money is spent from gambling, political manipulations of voters, sports, court proceedings, etc.

The last theory is consequentialism (sometimes called utilitarianism), the brainchild of the British philosopher Jeremy Bentham. He argues that the consequence of a particular action must solely determine a moral action. Thus, if moral action outcomes are good, such an action can be viewed as morally reasonable and appropriate. In other words, 'whether an act is morally right depends only on the consequences of that act or of something related to that act, such as the motive behind the act or a general rule requiring acts of the same kind' (Sinnott-Armstrong, 2003: 1). The question that arises is: Who benefits? Is it the individual/ethical egoism? Is it others other than the individual/ethical altruism? Is it all of the above/ethical utilitarianism? I find the theories to be quite contradictory. I note that

> The problem with these theories is the difficulties faced in their application, particularly because of the contradictions one encounters when attempting comparisons, both within and without. For example, an excellent consequence that brings happiness to an individual, a family, a community or an institution may not necessarily be either right or virtuous. Similarly, the way people understand duty varies, and the question is, therefore, a duty to whom? A family, belief/religion, employer, government or nation. (Ocholla, 2009: 81)

Furthermore, laws, morals and ethics do contradict or contravene one another (Froehlich, 1997). Such contradictions are evident in South Africa's former segregation policies (Dubow, 1989) and laws (e.g. the Immorality Act of 1950, Group Areas Act of 1950, the Creation of Separate Amenities Act of 1953, and the Bantu Education Act of 1953) that institutionalised apartheid (Mhlauli, Salani and Mokotedi, 2015). The contradictions emanating from applying the theories in real life and access to information and knowledge is also evidenced in *Long Walk to Freedom*.

Frameworks: International/global intervention

There have been several interventions in global information and knowledge access. The most popular interventions have resulted from the United Nations and its entities and policies such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Office of the High Commissioner for Human Rights (OHCHR), Universal Declaration of Human Rights (UDHR), World Summit on the Information Society (WSIS), and Sustainable Development Goals (SDGs).

In 1946, the UN expressed that '[f]reedom of information is an integral part of the fundamental right of freedom of expression, as recognised by Resolution 59 of the UN General Assembly adopted in 1946, as well as by Article 19 of the Universal Declaration of Human Rights (1948), which states that the fundamental right of freedom of expression encompasses the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers'.

The World Summit on the Information Society (WSIS) was endorsed by UN General Assembly Resolution 56/183 in 2001, and subsequently held in Geneva in December 2003 (11 000 participants from 175 countries) and Tunis in November 2005 (19 000 participants from 174 countries). The United Nations General Assembly held the World Summit on the Information Society (WSIS, 2016) to 'achieve a common vision, desire and commitment to build a people-centric, inclusive and development-oriented Information Society where everyone can create, access, utilise and share information'.

In 2015, Millennium Development Goals (MDGs) were succeeded by Sustainable Development Goals (SDGs), where the UN adopted an Agenda for Sustainable Development Goals, that provided 'a shared blueprint for peace and prosperity for people and the planet, now and into the future … recognised that ending poverty and other deprivations must go hand–in–hand with strategies that improve health and education, reduce inequality, and spur economic growth' (UN, 2015). Among the 17 goals is Goal 4, which focuses on quality education, to 'ensure inclusive and equitable education and promise lifelong learning opportunities for all'. I would also consider Goal 16 that focuses on peace, justice and strong institutions to be relevant, as access to information and knowledge should be viewed through the lens of social justice.

UNESCO similarly endeavours to 'contribute to building a culture

of peace, eradicating poverty, sustainable development, and intercultural dialogue through education, the sciences, culture, communication and information'.[1]

These four UN interventions share the principles of human rights, freedom, equality, access to information and knowledge, education and justice for all. While the global community actively participate in United Nations initiatives on an international level through their countries, individually, countries have policies and legal frameworks that guide the development, implementation and monitoring of ethical paradigms and principles (e.g., education policies and legislation).

NATIONAL/GOVERNMENT INTERVENTIONS AND FRAMEWORKS

Most countries are signatories of UN organisations and declarations or policies, such as UNESCO, UNDHR, WSIS and SDG, which address education, knowledge and information, communication, social justice, and human rights as highlighted in the previous section. They are, therefore, mandated to comply by the UN agreements. At a national level, some countries, guided by national constitutions, have enacted legislation and policies that mainly address access to information and knowledge through education and literacy programmes. For example, in South Africa, such interventions are reflected in the Constitution, the Freedom Charter (Alliance, 1955), the South African Bill of Rights and several legislations relating to education, science and technology, communication, culture, law, and human rights, where Mandela played a significant role . It is common to find related legal and policy frameworks and interventions in other countries.

THE *LONG WALK TO FREEDOM* PERSPECTIVE

While it was not intended to reflect on access to information/access to knowledge, Mandela's autobiography *Long Walk to Freedom* (Mandela, 1994) refers to knowledge, information, education, literacy and communication. The book is divided into eleven parts or themes: i) part one: A Country

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1   See https://www.un.org/youthenvoy/2013/08/unesco–united–nations–educational–scientific–and–cultural–organization/

Childhood, ii) part two: Johannesburg, iii) part three: Birth of a Freedom Fighter, iv) part four: The Struggle is My Life, v) part five: Treason, vi) part six: The Black Pimpernel, vii) part seven: Rivonia, viii) part eight: Robben Island: The Dark Years, ix) Part nine: Robben Island: Beginning of Hope, x) part ten: Talking with the Enemy, and xi) part eleven: Freedom. I have read the book again, this time intending to highlight, as best as I could, parts of the content that reference information and knowledge access to explain the role this had in his life and its ethical meaning, as access to information and knowledge is a fundamental human right.

I have divided this section into two parts. The first part represents information and access to traditional or indigenous knowledge, while the second part references access to modern/Western knowledge and information.

INDIGENOUS/TRADITIONAL KNOWLEDGE

There are many definitions of indigenous knowledge (IK) (Ocholla, 2021). Mawere (2015), for instance, emphasises the concept of 'intangible heritage' within IK, expressed by authenticity, spirituality and symbolism. Citing Deacon, Chabata and Chiwaura, Mawere added other social values, such as language, oral traditions, taboo, rituals, music, dance, art, folklore, riddles, idioms and cultural spaces – such as architecture (e.g. Egyptian pyramids) – that significantly distinguish particular IK or traditional knowledge from others.

Both indigenous knowledge and Western knowledge had a significant role to play in Mandela's education and information/knowledge access despite the marginalisation of IK (Ocholla, 2007) and the importance of indigenous knowledge education (Ocholla, 2021). Indigenous knowledge education in African society enabled access to information and knowledge by the community and was primarily acquired through oral traditions. Most of the narrative that addresses this is from part one of the book, which discusses Mandela's childhood.

I capture the following narratives, verbatim, relating to IK education from the book:

> 'The Xhosa are a proud and patrilineal people with an expressive and euphonious language and an abiding belief in the importance of laws, education and courtesy.' (1994: 4)

'Instead, as a descendant of the Ixhiba house, I was groomed, like my father before me, to counsel the rulers and the tribe.' (1994: 5)

'He was an acknowledged custodian of Xhosa history, and it was partly for that reason that he was valued as an adviser … Although my father could neither read nor write, he was reputed to be an excellent orator who captivated his audiences by entertaining them as well as teaching them.' (1994: 6)

'My father, and a few other influential chiefs, had the great respect for education that is present in those who are uneducated.' (1994: 6)

'As boys, we were mostly left to our own devices. We played with toys we made ourselves. We moulded animals and birds out of clay. We made ox-drawn sledges out of tree branches. Nature was our playground.' (1994: 11).

'The most popular game for boys was thinti, and like most boys' games it was a youthful approximation of war. Two sticks, used as targets, would be driven firmly into the ground in an upright position about a hundred feet apart. The goal of the game was for each team to hurl sticks at the target and knock it down.' (1994: 12)

'Whereas my father once told stories of historic battles and heroic Xhosa warriors, my mother would enchant us with Xhosa legends and fables that had come down from numberless generations. These tales stimulated my childish imagination, and usually contained some moral lesson.' (1994: 12)

'Like all Xhosa children, I acquired knowledge mainly through observation. We were meant to learn through imitation and emulation, not through questions.' (1994: 13)

'My life, and that of most Xhosas at the time, was shaped by custom, ritual and taboo. This was the alpha and omega of our existence, and went unquestioned.' (1994: 13)

'My later notions of leadership were profoundly influenced by observing the regent and his court. I watched and learned from the tribal meetings that were regularly held at the Great Place.' (1994: 24)

'Everyone who wanted to speak did so. It was democracy in its purest form.' (1994: 24)

'At the end of the council, a praise-singer or poet would deliver a panegyric to the ancient kings, and a mixture of compliments to and satire on the present chiefs; the audience, led by the regent, would roar with laughter.' (1994: 25)

'In my final year at Healdtown, an event occurred that for me was like a comet streaking across the night sky. Towards the end of the year, we were informed that the great Xhosa poet, Krune Mqhayi, was going to visit the

school. Mqhayi was actually an imbongi, a praise singer, a kind of oral historian who marks contemporary events and history with poetry that is of special meaning to his people.' (1994: 47)

'What I am [Mqhayi] talking about', he continued, *'is not a piece of bone touching a piece of metal, or even the overlapping of one culture and another, what I am talking to you about is the brutal clash between what is indigenous and good, and what is foreign and bad.'* (1994: 48)

'When I was sixteen, the regent decided that it was time that I became a man. In Xhosa tradition, this is achieved through one means only: circumcision. In my tradition, an uncircumcised male cannot be heir to his father's wealth, cannot marry or officiate in tribal rituals … Circumcision represents the formal incorporation of males in society.' (1994: 30)

'Circumcision is a trial of bravery and stoicism; no anaesthetic is used; a man must suffer in silence.' (1994: 32)

'Not all debates were political. One issue that provoked much discussion was circumcision. Some among us maintained that circumcision as practised by the Xhosa and other tribes was not only unnecessary mutilation of the body but a reversion to the type of tribalism that the ANC was seeking to overthrow. It was not an unreasonable argument, but the prevailing view, with which I agreed, was that circumcision was a cultural ritual that had not only a salutary health benefit but an important psychological effect. It was a rite that strengthened group identification and inculcated positive values.' (1994: 511)

'In my youth in the Transkei, I listened to the elders of my tribe telling stories of the old days. Amongst the tales they related to me were those of wars fought by our ancestors in defence of the fatherland. The names of Dingane and Bambatha, Hintsa and Makanna, Squngthi and Dalasile, Moshoeshoe and Sekhukhune were praised as the pride and glory of the entire African nation.' (1994: 432)

MODERN KNOWLEDGE

There is a strong recognition and acknowledgement in the book of Western education's role (and the role of Christianity) in Mandela's access to information and knowledge through education. Some of the narratives are as follows:

'But the AmaMfengu were an industrious people, and because of their contact with the Europeans, they were often more educated and "Western"

than other Africans.' (1994: 14)

'My Father did not subscribe to the local prejudice towards the amaMfengu …: they were educated and Christian.' (1994: 14)

'While the faith of the Mbekela brothers did not rub off on my father, it did inspire my mother, who became a Christian.' (1994: 15)

'One day, George Mbekela paid a visit to my mother. "Your son is a clever young fellow" he said. "He should go to school".' (1994: 15)

'She did relay it to my father who, despite – or perhaps because of – his own lack of education, immediately decided that his youngest son should go to school.' (1994: 15)

'The education I received was a British education, in which British ideas, British culture and British institutions were automatically assumed to be superior.' (1994: 16)

'I attended a one-room school next door to the palace and studied English, Xhosa, history and geography. We read Chambers Reader and did our lessons on black slates.' (1994: 20)

'The two principles that governed my life at Mqhekezweni were chieftaincy and the Church. The two doctrines existed in uneasy harmony, although I did not then see them as antagonistic.' (1994: 22)

'I saw that virtually all of the achievements of Africans seemed to have come about through the missionary work of the Church. The mission schools trained clerks, the interpreters and the policemen, who at the time represented the height of African aspiration.' (1994: 22–23)

'My destiny was to become a counsellor to Sabata, and for that I had to be educated.' (1994: 37)

'I was about to cross the river on my way to Clarkebury Boarding Institute in the district of Engcobo.' (1994: 37)

'Before leaving, he [the regent] had organised a celebration for my having passed Standard V and being admitted to Clarkebury.' (1994: 37).

'It was not lack of ability that limited my people, but lack of opportunity.' (1994: 42)

'The educated Englishman was our model; what we aspired to be were "Black Englishmen", as we were sometimes derisively called. We were taught – and believed – that the best ideas were English ideas, the best government was English government and the best men were Englishmen.' (1994: 42)

'During my second year at Healdtown, I was appointed a prefect by Reverend Mokitimi and Dr Wellington … Prefects had different responsibilities …' (1994: 46)

'*Until 1960, the University College of Fort Hare in the municipality of Alice, about twenty miles due east from Healdtown, was the only residential centre of higher education for blacks in South Africa. Fort Hare was more than that: it was a beacon for African scholars from all over Southern, Central and Eastern Africa, for young South Africans like myself, it was Oxford and Cambridge, Harvard and Yale, all rolled into one.*' (1994: 51)

'*We were exhorted to obey God, respect the political authorities and to be grateful for the educational opportunities afforded to us by the Church and the government. These schools have often been criticized for being colonialist in their attitudes and practices. Yet, even with such attitudes, I believe their benefits outweighed their disadvantages.*' (1994: 52)

'*In my first year, I studied English, anthropology, politics, native administration and Roman Dutch law.*' (1994: 53)

'*My education at Fort Hare was as much outside as inside the classroom … I joined the drama society and acted in a play about Abraham Lincoln … I became a member of the Students Christian Association and taught Bible classes on Sundays in neighbouring villages.*' (1994: 55–56)

'*I learned not only about physics at Fort Hare, but another precise physical science: ballroom dancing.*' (1994: 56)

'*A university degree, I believed, was a passport not only to community leadership but to financial success … As a BA, I would finally be able to restore to my mother the wealth and prestige that she had lost after my father's death … This was my dream and it seemed within reach.*' (1994: 59–61)

'*He [Garlick Mbekeni] was a friendly, solicitous man, and after I had been there a short while, I told him that my real aspiration was to be a lawyer.*' (1994: 78)

'*He [Walter Sisulu] paid close attention as I explained my difficulties at Fort Hare, my ambition to be a lawyer, and how I intended to register at the University of South Africa to finish my degree by correspondence course.*' (1994: 79–80)

'*At the end of 1942 I passed the final examination for my BA degree … I was proud to have achieved my BA, but I also knew that the degree itself was neither a talisman nor a passport to easy success.*' (1994: 98)

'*I have mentioned many of the people who influenced me, but more and more I had come under the wise tutelage of Walter Sisulu. Walter was strong, reasonable, practical and dedicated.*' (1994: 109)

'*My sister Leabie joined us and I took her across the railway line to enrol her at Orlando High School. In my culture, all the members of one's*

family have a claim to the hospitality of any other member of the family.'
(1994: 121–122)

'I enjoyed relaxing at home, reading quietly.' (1994: 121)

'Early in 1947 I completed the requisite period of three years of articles and my time at Witkin, Sidelsky and Eidelman came to an end, I resolved to become a full-time student in order to gain my LLB so that I could go out on my own and practise as an attorney.' (1994: 122)

'Ramohanoe was another one of those from whom I learned. He was a staunch nationalist and skilful organizer who was able to balance divergent views and come forward with a suitable compromise.' (1994: 124)

'Mass action was perilous in South Africa, where it was a criminal offence for an African to strike, and where the rights of free speech and movement were unmercifully curtailed.' (1994: 135)

'I acquired the complete works of Marx and Engels, Lenin, Stalin, Mao Tse-tung and others, and probed the philosophy of dialectical and historical materialism … I subscribed to Marx's basic dictum, which has the simplicity and generosity of the Golden Rule: From each according to his ability; to each according to his needs.' (1994: 137)

'As part of the M-Plan, the ANC introduced an elementary course of political lectures for its members throughout the country … there were three courses, "The World We Live in", "How We Are Governed" and "The Need for Change".' (1994: 168)

'Education is the great engine of personal development. It [is] through education that the daughter of a peasant can become a doctor, that the son of a mineworker can become the head of the mine, that a child of farmworkers can become the president of a great nation. It is what we make out of what we have, not what we are given, that separates one person from another.'
(1994: 194)

'The mission schools provided Africans with Western-style English-language education, which I myself received. We were limited by lesser facilities, but not by what we could read or think or dream.' (1994: 194–195)

'The government subsequently passed a law that made it an offence punishable by fine or imprisonment to offer unauthorized education.' (1994: 198).

'The Freedom Charter is a mixture of practical goals and poetic language. It extols the abolition of racial discrimination and the achievement of equal rights for all. It welcomes all who embrace freedom to participate in the making of a democratic, non-racial South Africa.' (1994: 203)

'There shall be equal status in the bodies of state, in the courts and in the schools for all national groups and races… All people shall have equal rights to use their own language and develop their own folk culture and customs.' (1994: 204)

'I began in the only way I knew how, by reading and talking to experts … I wanted to know what circumstances were appropriate for guerrilla war; how one created, trained and maintained a guerrilla force; how it should be armed; where it gets its supplies – all basic and fundamental questions.' (1994: 325–326)

'I had begun correspondence studies for my LLB degree, which allows one to practise as an advocate. One of the things I had done after arriving at Pretoria Local was to send a letter to the authorities notifying them of my intention to study and requesting permission to purchase a copy of The Law of Torts, part of my syllabus.' (1994: 381)

'I had chosen traditional dress to emphasize the symbolism that I was a black African walking into a white man's court. I was literally carrying on my back the history, culture and heritage of my people. That day, I felt myself to be the embodiment of African nationalism, the inheritor of Africa's difficult but noble past and her uncertain future.' (1994: 385)

'Children wander about the streets of the townships because they have no schools to go to, or money to enable them to go to school, or no parents at home to see that they go to school, because both parents (if they are two) have to work to keep the family alive.' (1994: 437)

'In the days before we were due to reconvene, I wrote papers for a set of University of London Examinations for my LLB… It certainly seemed bizarre to my guards, who said I would not need a law degree where I was going … I knew I would not be practising law again very soon, but I did not want to consider the alternative. I passed the exam' (Mandela,1994: 443).

'After we had been sent to Robben Island, there was concern among our supporters that we would not be permitted to study … Most of the men did so, and even though they were D group prisoners, permission was granted …. Certain subjects, such as politics or military history, were prohibited' (Mandela, 1994: 489–490).

Archie Dick (Dick, 2007, 2008, 2012) has covered the challenges of access to information and reading by political prisoners through censorship in greater detail.

'They argued that studying should not be a conditional privilege but an unfettered right … Receiving books at all was often a challenge … In addition to books, we were permitted to order publications necessary to our studies.' (1994: 490)

'Newspapers are more valuable to political prisoners than gold or diamonds, more hungered for than food or tobacco; they were the most precious contraband on Robben Island.' (1994: 492)

'I don't know how long I was reading; I was so engrossed in the paper that I did not hear any footsteps.' (1994: 493)

'It was ANC policy to try to educate all people, even our enemies.' (1994: 497)

'We reviewed the education of the children, a critical issue was the education of Zeni and Zindzi.' (1994: 505)

'It is not easy for a prisoner on Robben Island to defend himself in court … I said I needed access to a law library and demanded to be taken to Pretoria.' (1994: 507)

'I told her … the need for facilities for studying, our lack of rights to information such as newspapers.' (1994: 519)

'I spoke to Makgatho and Maki about my desire for them both to pursue further schooling.' (1994: 528)

'The authorities permitted us to organize a concert, hold competitions and put up a play.' (1994: 539)

'In addition to the concerts, we held a chess and draughts tournament, and also played Scrabble and bridge.' (1994: 539)

'I had read some of the classic Greek plays in prison, and found that character was measured by facing up to difficult situations and that a hero was a man who would not break down even under the most trying circumstances.' (1994: 540)

'In the struggle, Robben Island was known as "the University". This was not because of what we learned from the books, or because prisoners studied English, Afrikaans, art, geography and mathematics, or because so many of our men like Billy Nair, Ahmed Kathrada, Mike Dingane and Eddie Daniels earned multiple degrees. Robben Island was known as "the University" because of what we learned from one another. We became our own Faculty, with our own professors, our own curriculum, our own course.' (1994: 556)

'One day, Kathy, Walter and I were talking in the courtyard when they suggested that I ought to write my memoir … The idea appealed to me,

during a subsequent discussion, I agreed to go ahead.' (1994: 567)

'The end of manual labour was liberating. I could now spend the day reading, writing letters, discussing issues with comrades or formulating legal briefs.' (1994: 581)

'I began to order books on gardening and horticulture.' (1994: 582)

'But the suspension of study privileges had unintended benefit, and that was that I began to read many books … I did not have an unlimited library to choose from on Robben Island. We had access to many unmemorable mysteries and detective novels and all of the works of Daphne du Maurier … From the first, I tried to read books about South Africa or by South African writers such as Nadine Gordimer.' (1994: 585)

'One book that I returned to many times was Tolstoy's great work, War and Peace.' (1994: 585)

'In keeping with the increased openness on the island, we now had our own cinema … The first films we saw were silent, black-and-white Hollywood action movies.' (1994: 596)

'It reaffirmed my long-held belief that education was the enemy of prejudice.' (1994: 601)

'In 1980 we were granted the right to buy newspapers.' (1994: 602)

Archie Dick (2008, 2012) has written on the complexities of reading and access to information by the political prisoners that infringed their right to 'seek and receive' information in many ways. This right would be eased, but still with restrictions, only during the latter part of Mandela's prison life, largely due to international pressure for his release and other liberation movements.

DISCUSSIONS

Long Walk to Freedom can be viewed and analysed from many different perspectives, ranging from political analysis to public administration, legal, economic, cultural, educational, philosophical, psychological, ethical and literary analysis. My analysis – information/knowledge access – generally falls under the scope of the book's information ethical perspective with the view that access to education, knowledge and information is fundamental. To reiterate the words of the United Nations in 1946 (see section 2.2): 'Freedom of information is an integral part of the fundamental right

of freedom of expression', and it entails 'to seek, receive and impart information and ideas through any media and regardless of frontiers' (UNDHR, 1946, article 19). In the previous section of this chapter, I have tried to illustrate many narratives linked to access to information and knowledge, mainly through education. It is important to note that education in South Africa occurred during the times of segregation (Dubow, 1989) and institutionalised apartheid, where the Bantu Education Act of 1953 was in force (Mhlauli, Salani and Mokotedi, 2015) to offer inferior education to black South Africans.

As noted at the beginning of this chapter, laws, morals and ethics contradict one another (Froehlich, 1997; Ocholla, 2009) as do virtue, duty, rights and consequentialism (Ocholla, 2009). Under apartheid, such contradictions often occurred in relation to the law versus ethics and morals when individuals had to decide to obey the law but contradict morals or ethics or vice versa. Mandela's access to information and knowledge through education, therefore, may seem controversial given these contradictions. While Mandela acquired virtue through indigenous and Western education, contradictions between virtue/good character, duty (e.g. to family, liberation and the struggle, fellow-citizens, ANC), law (apartheid laws) and morals often occurred. The choices he made towards liberation would challenge the ethical theories and values in many ways.

From an indigenous knowledge perspective (see Indigenous/traditional knowledge in this chapter), the four theoretical perspectives, particularly virtue and duty, are informed by oral traditions that include rituals, folklore, riddles and taboo (Mandela 1994: 13; Mawere, 2015). For example, the decision by the regent that it was time for Mandela to become a man through circumcision (Kaschula, 2002), which can be viewed to be 'a trial of bravery and stoicism' (Mandela, 1994: 30), reflects the development of virtuousness in a person from an IK education perspective. Circumcision is practised widely by various communities in the world for multiple reasons. Dunsmuir and Gordon's article (1999) 'History of Circumcision' covers its historical origin, why it is practised, by whom, how and its controversies. They note that circumcision is practised by one-sixth of the male population (at the time of writing) worldwide, for religious (covenant of marriage, rite of passage, purity), cultural (rite of passage/ritual, survival during hardship, pain imprinting, cultural identity, fertility rights), medical (hygiene) and political (power, control, slavery and humiliation, among others) reasons. It is evident that circumcision among the Xhosa is

done mainly for cultural reasons and indigenous knowledge education of the circumcised occurs during the ritual (both silently by enduring it and loudly by listening to wisdom from elders).

Storytelling instilled 'listening, telling skills' and cultural moral values. Storytelling has been practised among communities globally for many years from antiquity to modern times for – among other reasons – cultural, educational, political (e.g. patriotism) and entertainment purposes (Greene, 1996). Greene writes that 'among the Xhosa and Zulu peoples of Africa storytelling was considered [for] training in listening and telling' (Green, 1996: 3) largely among children. Mawere (2015) provides examples of how indigenous knowledge was conveyed to the community through oral traditions, storytelling, rituals and taboos, and also emphasises the cited understanding. From an ethical point of view, storytelling is used for 'teaching social and moral values' mainly to the children and the youth. Elders were the main teachers of such values. Praise singers were also storytellers.

The role and importance of a praise singer or poet in the Xhosa and Zulu traditions are reflected in many studies. For example, Russell Kaschula's (2002) book entitled *The Bones of the Ancestors are Shaking: Xhosa oral poetry in context* reflects on the concept of Imbongi, orality preachers and poetry, power and poetry, marginalised voices and other perspectives that demonstrate the role and importance of a praise singer in the community.

From a Western knowledge perspective, the ethical values were inculcated through education (schools, university, college, reading, studying, books, libraries), church/Christianity, obedience to church/God, government and political leadership/authority.

A large part of access to information and knowledge is informed by the United Nations and national interventions (see Frameworks: International/global intervention in this chapter). To reiterate, UNESCO focuses on access to education; OHCHR and UNDHR on human rights; WSIS on access to information and knowledge; and SDG 17's focus is on education, equality and justice, among other areas. All the UN interventions highlight human rights, equality, social justice and education as essential pillars for access to information and knowledge, with different degrees of emphasis. Harmonising the contradictions between laws, morals and ethics, within and between countries, is one of the great challenges of these organisations and declarations.

It is evident that access to knowledge and information in Mandela's autobiography was primarily achieved through indigenous and Western education. Knowledge was also acquired through both formal (e.g. school and university education) and informal (e.g. people such as friends or comrades, reading and listening, mass media – newspaper and broadcasting, correspondence, visitations, songs, court cases, meetings and conversations, political education, mentorship, counselling, consultations, workshops, imitations, negotiations, religion/churches/preaching, cinema, books, libraries) education. Access to information and knowledge through informal education is spread throughout the book with different levels of elucidation. Both inside and outside the prison, Mandela championed social justice and pioneered the South African Bill of Rights.

There is a thread of concepts and phrases derived from the narratives in the previous section of this chapter. Among them, education is the most widespread concept. From an indigenous knowledge perspective, the concepts that occurred at least once include education, laws, counselling, leadership, orator, self-democracy, praise singer and poet, Imbongi and circumcision. From a Western/modern education perspective, the following concepts appeared at least once: education, Christianity, school, curriculum, missionary, counsellor, Western culture, English culture, language (e.g. Mandela spoke many languages, including Afrikaans – the language of the oppressor then – that also widened his knowledge and information access scope), preachers, teachers, obedience, God, church, authority, university, lawyer, teaching, mentorship, reading, student, studying, learning, books, broadcasting, library, Marxist literature, classic literature, political education, freedom charter, language, folk culture, customs, history, correspondence, letters, law library, concert, drama, memoir, cinema and newspapers. Strangely, education does not appear in the list of subject terms that are produced through advance searches by 'information access' OR 'knowledge access' from Ebsco discovery services (which hosts several databases including SCOPUS and LISS) from 2001 to 2020, suggesting that there is no link between education and information and knowledge access, which is incorrect. Nonetheless, the concepts largely represent how access to information and knowledge was achieved.

CONCLUSIONS

Mandela lived most of his life under an oppressive and segregationist regime that had no respect for black South Africans, which had an enormous influence on how he accessed information and knowledge. Access to information and knowledge in the book is anchored by ethical theories and international conventions and declarations that focus on human rights, education, freedom, liberty and social justice. Education is the key method of access to information and knowledge where both indigenous and Western or modern education played a fundamental role in Mandela's life. Both formal and informal education dominated access to information and knowledge. The contributions of informal education and information access through many interactions and meetings with people (such as comrades in the struggle, government officials, civil society, friends and relatives, and mass media and other publications) are prominent throughout the book. These interactions should, therefore, not be taken for granted. *Long Walk to Freedom* should be analysed from different perspectives to bring some of its hidden lessons to the fore.

This chapter's focus was on information ethical aspects of the book. The selected quotations were based on my understanding and judgement of access to information and knowledge. The limitations noted, however, do not limit the value of the chapter as based on my knowledge, *Long Walk to Freedom* has not been analysed from an information ethical perspective focusing on information and knowledge access, which is a fundamental human right.

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Info-vultures: Automated emancipation or bondage? Facing the ethical challenge

Dr Juliet Lodge

'Let freedom ring wherever the people's rights are trampled upon.'
Nelson Mandela, Atlanta, speech 1990

INTRODUCTION

Is our sense of freedom and self-determination illusionary? Given that digitisation and artificial intelligence (AI) are seen as keys to economic recovery and prosperity, the need for ethical reflection is urgent. Anything digital can be stolen, manipulated and re-purposed. With the creation of a shared market between 54 countries, the African Continental Free Trade Area (AfCFTA) is highly significant and must influence consideration of any regulatory frameworks that may become necessary in order to retain our sense of freedom and be in a position to exercise it in a meaningful way. Will it become increasingly threatened and unreal? Are we all digital natives in some lesser or greater respect? And are we all unconsciously occupying a digital space via our shadows of digital engagement? Could we be unaware of how those spaces are or can be accessed by automated algorithms and processes for undefined or re-defined purposes alien to the reason for which we first left our digital footprints? What are the ethical implications for society and individual and collective freedom?

The challenge is a universal one. Now we all face the imperative of trying to develop means to lead the ethical use of innovative technologies. International collaboration to model and demonstrate commitment to this is vital to benefit all people. The European Union developed some of the strongest privacy standards and laws and is trying to advance ethical practice and laws. Cooperation with Africa is a high priority and now is the time for international action. Nelson Mandela teaches us to confront the challenges facing us with courage, an open mind and a commitment to communicate, be fair and just. His values can inspire an ethical future use of technological innovation if we rise to the challenges together.

Rafael Capurro suggested in 2009 that information ethics can and should contribute to address the challenges of the digital age. The pandemic lends urgency to meeting this need. In 2013, Capurro said that the vision of an inclusive Information Society, as developed during the World Summit on the Information Society, must be global and plural at the same time. Concepts like hybridisation or polyphony are ethical markers that should be taken into account when envisaging new possibilities of freedom and peace in a world shaped more and more by digital technology. In 2021, Members of the European Parliament echoed this and expressed concern that artificial intelligence was being re-purposed potentially for military purposes and in ways that could transform the distinction between conflict and peace. Following the EU Commission's White Paper on AI in 2020, over 60 civil society and rights groups in a letter called on the EU Commission to establish 'appropriate limitations on the use of AI-based technologies' to ensure that their uses are safe, legal and do not discriminate. They sought regulatory certainty and fair competition along with assurance that lawful use of AI would not be permitted to undermine democratic society, unduly restrict human rights, exacerbate structural discrimination, exclusion and collective harms, and associated freedoms, or permit the manipulation or control of human behaviour and associated threats to human dignity, agency and collective democracy. All algorithms are programmed to discriminate so the need for ethical parameters grows daily.

TECHNOLOGY AS ENABLER OF HUMAN EXPERIENCE

Perhaps one of the greatest lessons that Nelson Mandela teaches us is that ethics is a public good: without ethics, emancipation and freedom are liable

to being restricted rather than universalised. Ethical frameworks when internalised by individuals, expressed collectively for society and embedded constitutionally by institutions depict the triumph of cooperative behaviour for a greater good over ephemeral pursuit of narrow sectional interests and values. Legislation echoing this goal often focuses on combating inequality and discrimination that in themselves highlight the creation of societies that are anything but uniform, universally free but instead rest on the intrinsic inequality of individuals.

Science and technology bring innovation that has the potential to expand the human experience through connection and online virtual access to information, cultures, knowledge and understanding. Access to information has become a socio-economic expectation, a means to do legal and illicit things online. In some countries, internet access is a right (entrenched in law). It has also become a source of suspicion as automated information gathering, for example by drones, 'smart' motorways, 'smart' meters and devices monitor and trace actions that can be linked and ascribed, rightly or wrongly, to a physical person or entity.

Asymmetric information relationships have arisen whereby people (in terms of their bodies, personal and private information) are being digitised, commodified, commercialised, 'unbundled' and observed without their knowing it. This is shown even in public spaces of real time disclosure, private spaces of the mind (whether the person is incarcerated or free to roam) and in the narratives of wishful thinking, digital alternatives or the imagined self. It is simultaneously evident in the more guarded disclosure of the self that leaves tracks into infinity – the digital self cannot be erased. But even this seeming expression of beingness or 'having been' does not mean that 'lasting life' is guaranteed in perpetuity. Rather, it is bound up in the cultural spaces and by the limitations of technologies in which it is created. Eternal is elusive; and to be free is qualified by the invisible chains of technological enablers of liberty that we can use to choose to do something as a real, physical person. Or we can choose to do so as the imagined lives of the alternative self in our intangible – sometimes imagined – spaces of virtual realities that digitally transpose the physical to a screen.

How these expressions of liberty and the self impact the individual and society is contextual and qualified by many variables, themselves expressions of inequality. For people and automated systems able to access online resources, spaces of individualised as well as collective disclosure

of real-time realities seem attainable. Yet, the same spaces also disclose alternative realities and presentations of both. As a result, the search for genuine, authentic, seamless identity verification mechanisms for trustable disclosure becomes a holy grail of emancipatory freedom. Its embodiment is most sharply revealed in the technologies of border control linkable databases.[1] Covid-19 has also spurred some governments to accelerate the adoption of national digital ID tokens.

At the most mundane level, this is an expression of the ever more complex, biometric identity document supposedly confirming that someone is who they claim to be. But its very falsifiability erodes trust in it, the technology and those who use it. The purpose and context for use constrain the emancipatory effect by setting boundaries within which it is useful: a time-limited bank card for a transaction cannot be simultaneously used for universal management of identity claims for multiple purposes. So even at this most mundane level, we are confronted by the Janus-face of such tokens of emancipation that simultaneously capture and entrap the individual. When technological shadows and tokens are linked and commodified, retained, compromised by legacy system obsolescence or lost – as the work of the United Nations Educational, Scientific and Cultural Organization (UNESCO) reveals – their liberating and entangling impact on society is accentuated but ill-understood.

Mandela's lessons on freedom help us begin to understand the dilemma we face in allowing algorithms, which humans create, to automate and accelerate the transmission of digitised information between machines.

Machine2machine deep-learning, data portability, the regulation of digital gatekeepers and the challenges and promises of automated interoperability are alluring but confront us with the need to question what obligations might be placed on gatekeepers. What ethical considerations should inform pan–European-African visions and platforms? Is there a need to consider how ethically informed regulations on the deployment of these automated systems could be enforced? Or will there be a rush to the bottom, neglect of such issues as the lure of future digital markets blinds us to the human dimension to all this?

Mandela was acutely aware of discrimination. He would have understood

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1   Such as Eurodac, the EU's oldest biometric database and its upgrading and linkage with and accessibility by legitimate law enforcement agencies, including Europol, SiSII, Sirene, EU-Lisa, and Eurosur. Integrated maritime surveillance | Mari1time Affairs (europa.eu) accessed 12 January 2021.

that automated decision-making derived from algorithms is discriminatory: it inevitably reflects the biases of those who create them, for whatever limited or expansive purposes. They categorise people on the basis of pre-selected criteria. Often presented to the public as a speedy convenience gain, their purposes are tied to the idea that automated decision-making appears value-free, objective, benign – when it is not necessarily so. And any re-purposing of the algorithm and associated or associable information, and expansion in function and mission creep raises important concerns for our freedom to be autonomous human beings.

This is readily illustrated by controversies over the taking of biometric data in order to lend certainty to a claim made by a human that s/he corresponds to the biometric identifying data held in a database or on, or accessible via, a chip. The inherent problem, of course, is that all this is linked to issues around the predictive capability of machines to give humans a sense of certainty when they want a person's identity corroborated. So we have predictive policing. We also have automated decision-making when people apply for jobs.

Of particular concern in the past has been the acquisition of fingerprints from young people (as fingerprints change over time). The EU's repository – Eurodac – holds prints, but not of babies. The proposed new policy in South Africa seeking to take some biometric features from babies at birth opens a Pandora's box. The purpose may initially be limited – for example, to try and combat identity theft and fraud – but is potentially expansive. The state and others buying such information from the state, or private–public partnerships capturing it on behalf of state administrations for legitimate purposes, may reconfigure or use it for other purposes. Voice recognition software, used by banks, has also been used in other applications. Jobseekers have been screened in front of a webcam and their intonation, behaviour and speech analysed by an algorithm which assigned certain characteristics to them. Those characteristics were, of course, pre-selected by those who specified what they wanted the algorithm to do. The more such biometrics are refined to mimic a human, the less trust a human may have in the organisation that relies on bots responding to humans. The organisation may assume it has gained certainty over the human with whom it interacts but there could be a loss of certainty and trust by the human. Without mutual respect in the integrity, honesty and accountability of the system, over-reliance on the new technologies may have avoidable and unintended

consequences for trust and toleration in society.

The temptation to link it to other data – health, education, family and civil purposes – can easily become overwhelming. The South African Home Affairs department wishes to ensure all babies have a birth certificate (when around 10 in 1 million do not) and wish to link the data to parents' identity numbers as part of a new registration scheme to deter the selling of birth certificates illegally to foreigners wanting South African citizenship. Official identity documents are the gateway to accessing services in future. However, if they are the *only* way to access a service, or authenticate the self, what are the implications when the data on which they rely is corrupted, erased or lost accidentally or deliberately? This question was posed recently when the British Home Office lost the DNA data of over 150 000 criminal suspects and some 400 000 records. Clearly, if such identity tokens are to be relied on, they must be supported by robust security architectures and not be seen as an alternative to human evaluation of information or as a short-cut panacea. Ethical regulation and privacy compliance are vital (Thomson Reuters Foundation, 2021), as experience across the world has revealed.

THE DIGITAL AS EMANCIPATION AND BONDAGE

Mandela's speeches stressed that individual freedom is constrained if freedom is not collectively possessed and enjoyed. The issue of what it means to be free in a digital society has yet to be unravelled. The symbol of freedom in digital society seems to be 24/7 online access to information by individuals. But the problem for individuals and society is that a 24/7 online presence does not equate to liberty. Rather, it entraps and chains both individuals and society in that digital life where space widens seemingly into infinity and creates ever more tracks whose destination is unknowable, imprecise and could be dark. The challenge is how to harness this to realise an ethical digital society for the public good.

AI creates for humans the illusion of expanding their free time, their freedom to choose to do leisurely things: the faster the systems work, the more time is released. However, 5G and 6G may not be as suitable to enable this as is sometimes assumed. Moreover, the technological growth in the time and capacity to do something simultaneously constrains the freedom of humans to autonomously benefit from it when so much of daily activity of the individual and of society increasingly depends on the

intervening enablement to do so of a machine or service provider, and energy to power them.

If digital technology is to be emancipatory, it must enable humans to do something that they couldn't do as fast or as readily without it. Access to digital technology may be seen as a route to emancipation and freedom to seek digitally available information. Accessing forms online to complete civic requirements, or reading media content, documents and books, purchasing goods and services, and chatting to people across the world in real time are examples of the effects that are seen as both emancipatory and beneficial. Their advantage depends on them being accessible and usable on the basis of autonomous self-determined choice. However, the very same technology is confining and exclusionary if someone does not have the choice or means to access or use it for whatever reason, and, if that, in turn, means that the person cannot exercise choice to access or participate in online services.

The simultaneous disadvantage lies in the fact that whereas individuals may not be able to access personal information or a service, a machine, bot or other individuals may be able to do so without their knowledge or explicit consent. This is not the place to go into the problems associated with e-crime, hacking and fraud. Rather, the focus must stay with the individual's digital presence and how that is recorded, and what ultimately that might imply for our understanding of the contradictory impact of the digital on individual and societal freedom and bondage.

Perhaps part of the answer lies in the paradox of digital freedom: digital acts leave digital tracks. Such tracks are left as the shadow, a mirror of past digital action(s) by a real person. These tracks are almost impossible to erase. They are tracks which others (including bots) can trace, aggregate, commodify, splice and re-use. But they are but a fragment of the real person from which they are derived, and about whom someone or something makes all kinds of assumptions and inferences, and enables actions often without their prior consent, knowledge or awareness. So at the same time as the tool emancipates and allows a user to enter a digital world, it confines and binds the person within the digital; and the intersecting digital bubbles within which a person may be free to roam, to expand his/her experiences, share information and interact. These bubbles collide, burst, reform and merge into different digitised forms and spaces within which a minute trace of the originator may exist in the actual present or future beyond the lifespan of the originator.

THE DIGITAL TRACK AND MEMORY AS EVIDENCE OF DIGITAL FREEDOM

If we all have a digital shadow(s), is it evidence a digital track of our freedom? Or do they merely define the contours of space within which we were free to roam? Or the spaces and tracks that we left but did not adequately shield from surveillance? If we are online 24/7, 365 days per year, our digital track spans 28 470 hours. We legislate on privacy but too often overlook that privacy by design supports but is not a substitute for ethics tests, ethical impact assessments and stringent ethical compliance audits such as that developed by the EU Aries project. It is dangerous to consign ethical compliance to a tick-box exercise if we truly wish to be both private and free.

We erect privacy filters to deter intruders, identity theft, impersonation of ourselves and become the guardians of our own space. Disclosure is supposedly in our hands and on our own terms. But that is a chimera. For some the safest private spaces are where we conceal ourselves, lock others out and where we demand certainty that anyone (or any bot) we allow into those spaces are who they say they are.

Determining the authenticity of a physical person has become dependent on access to elements of the shadows. Who or what is real? In addition, in practice the human tendency to outsource and store information on external devices – like smart phones, in the cloud and in digital libraries – signals the digitisation, manipulation and outsourcing of memory to a digital non-human device.

Memory is traditionally associated with the concept of a brain, an organ where knowledge and information accumulate and are accessed by the free choice of the brain's owner (under normal circumstances, we are not talking about drugged brain states or interrogation). If a physical person's memory is partly dependant on the outsourced digital repository (or their personal digital brain), the question arises as to whether this frees them, and if so, how and for what purpose and to whose benefit? Or does it simultaneously entrap them, rendering them more dependant and less capable of exercising free will unless they are able to access their digital repository or memory? And whatever or whoever enables them to store and access that repository? Is such reliance a constraint on the capacity to think independently, critically and to access and autonomously interrogate

and compare conflicting information? Perhaps this is a digital form of Aldous Huxley's soma where speedy access is everything and independent thinking too difficult or is inhibited by the provider of the repository to ensure compliance and conformity. Or where something or someone sets an agenda, defining the individual human or society or ethnic groups as desirable or undesirable, honest or criminal, healthy or sick. A definition that will be time and culturally bound, changeable over time and certainly not as immutable as purveyors of digital prediction pretend? Is the digital information 'out there' sifted and re-worked to serve the almost certainly nefarious goals of a dictator able to monopolise all digital space? And where the individual will or capacity to think autonomously is eroded and compliance results in inertia?

Logically, if we outsource part of our memory to the cloud, we outsource responsibility for its safekeeping and accessibility. In effect, we put ourselves in chains and limit our freedom by becoming reliant on accessing a repository or service controlled by something or someone else. We abdicate responsibility for determining the limits of our freedom to choose by accepting that our access to those memories is in the control of those who can deny service. We may be relatively free to select a service provider but the question is: do we remain free if the outsourced self in heterotopia relies on being chained to one or more 'digital dinosaurs or sovereigns' (the service providers) who control access to those memories/the digital brain? Even then, nothing remains static indefinitely.

It is tempting to see the optimistic emancipation of real-time access to the digital brain as enhancing human capacity to think and innovate, as illustrated by the narrative of the individual thereby becoming trans-human or an enhanced human. Yet practical experience shows that such e-brain storage expands in line with the individual's capacity or willingness to pay for digital storage space. If such digital storage allows for the immediate offloading of trivial or more complex pieces of information, is the individual tempted to postpone memorising the information to the future, or not to remember it all? Does this automated expansion of personal memory dilute recall or even inhibit long-term memory? Does it affect the brain's structure? Does it rob society potentially of the role of human agency in the making of connections that link society?

Implicit in this is the sub-text of a disadvantage of outsourcing individual memory: the individual freely offloading information to the

cloud is perhaps unaware that s/he is thereby, by default, permitting linkage and bondage and, in effect, a commodification of a personal memory. Buying more storage space is the most common example of this. But the technological storage of such memory differs from its older encapsulation in diaries or photo albums found in museums or in homes because it relies too on digital innovation, and compatibility with ever new variants of programmes. What Capurro terms the digital sovereign has thereby acquired a power to deny access to that memory, to deprive the individual of connection. It is also a power to inhibit the individual's ability freely to make connections, to exercise autonomous future choices and instead become reliant on 'suggestions' as to what they may like. We must ask who made the choice in the first place. Was it the individual choosing to offload memory, consenting to terms and conditions (rarely read or understood) as a condition of being allowed to use the service? Or what it culturally pre-determined? To be free, the individual had to be a digital native, whose tracks lay and expanded everywhere across cyberspace?

This presents users with a consequence for themselves that they would probably not have chosen had they understood the implications for either their physical, internalised memories or for their individual freedom to make and retain personal memories – ones that they can connect to others. It is not that they individually or collectively suffer from amnesia or dementia. Instead, their capacity to shape and re-shape cultural memory has been partially offloaded and shared with algorithms rather than with thinking individuals. This limits their ability to build the core of a humane society, and doubly entraps them because they have to buy a right to re-access something they possibly wanted to keep in their memories. Does the freedom to offload and outsource become a constraint on their future freedom and autonomy as individuals and as members of society?

The use of 'black box' algorithmic systems to back or replace human decision-making potentially undermines and constrains autonomy and freedom in ways which are dangerous to society, especially if they are developed on the basis of erroneous and biased data, and are not subject to clear chains of accountability. The need for a human-centric AI regulation to underpin the application and enforcement of the rule of law, similar to the General Data Protection Regulation (GDPR), is essential for developing ethical AI. While this may be recognised as a challenge for international cooperation by UNESCO, the Council of Europe, the

EU and the Organisation for Economic Co-operation and Development, getting there is difficult.

According to the European Parliament's Scientific Foresight (STOA) think tank, AI needs to be as diverse as our societies, especially because AI magnifies incompatible standards, social inequalities, gaps in access to technological literacy, and citizen reliance on outputs that may be anything but trustworthy, accountable, controllable, reliable, fair, just, trustworthy or secure. Technical advances and faith in blockchain and a blockchain code of ethics may be a means to ensure that AI is ethically applied under certain conditions in order to respect human dignity. Human agency is essential to drive accessibility, diversity and understanding of the tangential impact on different groups of the use of machine-learning AI and ensuring high quality data and architectures, accuracy and accountability reviews of the fairness and transparency of underlying algorithms. Self-serving algorithms for predictive policing, and other purposes, must be regulated. As with the example of privacy by design, it is tempting to think that a technical solution – ethics by default and ethics by design – could be the solution: it isn't sufficient. The EU's High-Level Expert Group on Artificial Intelligence, set up in 2018, saw it as essential to building human trust in AI. The European Parliament in 2020 stressed the need for AI, robotics and related technologies to accord with the precautionary principles of necessity and proportionality, and with human rights law. It insisted that the ultimate aim must be to increase every human being's wellbeing.

THE DIGITAL AS SELF-IMPRISONMENT AND SURVEILLANCE AS PSEUDO ESCAPE TO FREEDOM

The Covid-19 pandemic is an existential threat and endangers human wellbeing. The paradox of physical isolation during the pandemic lockdowns seems to be revealed by how the curtailment of relative physical freedom to roam was met by a search to re-assert human connectedness using online spaces. It was as though it was necessary to find proof of human existence and ability to connect using cultural tools (the online singing, uploading of people shouting or singing on their balconies together, online orchestras, rappers, children playing well-loved music or doing physical exercises, cooking and drinking simultaneously via zoom and similar).

Seeing and hearing other humans assumed greater value. A thirst for finding and valuing human connection seemed to epitomise freedom to connect at a time when freedom to meet a loved one was constrained by Covid restrictions.

At the very time more of our lives went online to demonstrate our beingness, outside masking became normalised in countries unaccustomed to concealing the face partially. That de-prioritised the old security prohibitions for not doing so, lest surveillance or identification cameras needed to recognise, confirm, authenticate and track were compromised. Concurrently, however, governments sought to re-assert geolocation via smart apps, presented as personal safety augmentation for personal and collective public health. In so doing, they bolstered surveillance (sometimes in an unrestricted way, disregarding limitations normally imposed by emergency legislation). They curtailed freedom by the implicit tracking and personal data mining, linkage and commodification that accompanied such tracking while presenting it as an end to the bondage and imprisonment that self-isolation had required.

Simultaneously, societal inequalities were highlighted by growing reliance on access to digital devices and being able to afford to be online 24/7. Some governments presented the adoption of smart phone Covid tracking apps (normally seen as curtailing personal privacy) as the price to citizens wanting physical emancipation. Some countries saw the digital divide as unethical and divisive, creating a new tier of privileged entitlement to roam (the e-health passport). Others suggested it meant a cost to the individual and to society: an infringement of the principle of the inviolability of human dignity that needed to be weighed against a greater good – collective freedom, where freedom was simply understood as a right to leave the house.

Covid questioned how the relative balance between freedom, security and justice might shift. The question is unanswered as state constraints on individual and collective freedom imposed during an emergency may not be so readily lifted. British legislation has been heavily criticised on those grounds. Individuals and society are confronted by the dark info-vulture slurping up as much information and linkable data about individuals as possible simply because the law permits and enables (sometimes through state funding) technology to do so. Immediate short-term freedom versus long-term liberty understood as freedom of choice

over data sharing and consenting to its release to known others, human or AI, posed some fundamental questions about the heterotopian world presaged by the pandemic.

It also challenged our understanding of individual and state power, ethics underpinning both and whether the exercise of that power and technological governance can be justified with reference to a common value system that upholds and is informed by a commonly valued and understood code of ethics. Can that be agreed and can it be built into AI use? International organisations tried to promote implicitly recognition of, and actions that realise, collective good by following good practice in the use of information and communication technologies. The International Telecommunications Union (ITU) developed a new platform to pool experience and innovative policy measures to reinforce digital capacity across the world to support recovery from Covid-19. This highlighted existing digital divisions as well as the potential to mobilise AI for the good of humankind.

The UN's work on sustainable development goals, digital interdependence and cooperation recognises the promises and challenges both of innovation and rapid obsolescence, and of the potential for data-powered technology to empower individuals, improve welfare and promote universal rights *if* appropriate protections are put in place. This is a key one derives from understanding ethics in practice. Defining and setting high ethical standards is a first step to realising ethical practice and requiring compliance with it. This is a task for international organisations working together. The World Summit on the Information Society presented its goals for 2030. They cannot be separated from recognition of the need to transcend inequality and the means to realise them being shaped by the expanding deployment of automated decision-making and artificial intelligence. The pandemic highlighted this.

Confinement and the closing of geographical borders resulted in a re-assertion of human communication and interaction through augmenting human presence, cultures and a seeking for affinity online, for those privileged with the means to do so. Dislocation accompanied lockdown and confinement, and people struggled to imbue their lives with purpose and stability. As Mandela had pointed out, in prison routine assumes great importance. Advice from the Covid authorities also encouraged people to find a routine, to give form to otherwise formless weeks not shaped by the work imperative outside the home. Boredom and depression were

seen to rise in the face of the ending of daily purpose normally shaped by external demands (such as commuting, working, going to school, taking breaks, holidays, leisure outside the home). So suggestions flowed for self-improvement, craft activities, free access to online museums, galleries, sports events, films and courses. Dissatisfaction with imposed passive consumption of entertainment was not satisfied, however, over the months of confinement by autonomous individuals seeking diversion through self-improvement online. Digital life hit the limits of human tolerance: human-to-human contact was needed to reaffirm humanness and the value of being human and having life. This too was intrinsic to what Mandela teaches us and what Capurro highlights for us:

> internal factors may be even more crucial in assessing one's development as a human being. Honesty, sincerity, simplicity, humility, pure generosity, absence of vanity, readiness to serve others – qualities which are within easy reach of every soul – are the foundation of one's spiritual life. (Mandela 2010, 211–212)

But Mandela teaches us more about the value of information and access to information and the right to communicate. Realising all may present us with an ethical challenge in a heterotopic situation but communicating freely is essential to sustaining a free society and with it the core ethical principle of human dignity. In 2013, he said:

> Freedom of information in a multiethnic and multilingual society …we were not different people with separate languages; we were one people, with different tongues.

Mandela's long walk to freedom is intrinsically both an assertion of the human need to communicate and to connect. His political commitment is an ethical commitment to a human world in which people can talk freely to each other, presupposing that each one recognises the other as equal. As Capurro says, Mandela's engagement in conversations with the warders highlights how difficult it is for such basic human commonality to occur in heterotopian spaces. Trust and mistrust are survival strategies both in physical confinement and in the digital spaces of our cyber societies.

The two were juxtaposed by the pandemic lockdowns that faced

individuals and society with periodic experience of confinement. For some, this shrank their physical experience of space to their living area, rooms and homes. For some, this meant solitary confinement and physical distancing and separation from families. For others, this meant confinement with others who abused them; or confinement in which their normal daily activities could no longer function owing to lack of economic resources and the basics of life: poverty increased. It meant that normal precautionary ethical principles were not upheld.

The pandemic also led international organisations like the International Telecommunications Union (ITU) to pool knowledge and accelerate collaboration to bridge the digital divide by using AI and machine learning with an eye to 5G. But these initiatives often remain invisible to individuals across the world. For most, the pandemic shrunk their world to their own homes. This too highlighted inequalities. Those having resources to access the digital world did so to seek human connection and meaning, relying increasingly on digital interaction. Such reliance on digital communication to provide a semblance of human connection, or a digital expression of such interaction, may shape and compromise our understanding of individual separateness, distinctiveness and uniqueness. It certainly gave individuals an experience of what it means not to be physically free to leave the home except under certain conditions.

Mandela teaches us that we cannot be free if we, individually, cannot be alone. The digital allows us virtual connection to others in cyberspace regardless of where we are located physically and whether we are physically alone or in public spaces. It allows us to expand the circle of being recognisable or knowable by others who we have not physically met when we so choose. Or so we think. But we disregard the fact that whereas we can physically switch off and distance ourselves from individuals who know or recognise us by re-locating ourselves, artificial intelligence does not allow us to disconnect (something the EU seeks to regulate as a right) and it entangles us in being ever recognisable in some digital form.

By switching off a device, we are not disconnected from the digital world. We have turned off our window to that digital space and deluded ourselves into thinking that thereby we have distanced or isolated ourselves from that 'freedom to be knowable and recognisable everywhere'. We, as digital natives, are not alone.

Mandela taught us that for equality before the law to be meaningful, there

must be impartial interpretation and guarantees of transparency. We rely on interpretation and his words resonate today. We should not fool ourselves into thinking that the impact is neutral on us when artificial intelligence can deduce (and relay to other machines or humans) our mood from our face or voice, or from our gait, or our preferences for colours, clothes, places, food, music and cultures, for example, or even to ascertain brain patterns and encourage certain behaviour. AI may both infer probable behaviour and link it to other digital tracks. Indeed that is the purpose of digitally enabled profiling. However, it challenges human dignity and autonomy. It challenges the right of the human to data protection because the automated processing of data to develop predictive knowledge, and infer certainty from the ensuing profile, is separated from human agency. However, it can be used as the basis for automated profiling and associated decision-making without the subject's knowledge and explicit consent or ability to check the accuracy of that data. It separates us from human communication.

Without autonomous human intervention, unjust outcomes may arise because AI may be built on and replicate errors. It may entrench false assumptions and predictions, mis-identify us, mis-link our tracks and misinterpret our intentions. The result is a web of errors that are magnified but recorded and deemed as neutral, factual indicators of our authentic intentions when they may not be. A digital track having been inferred corrupts the authentic digital and actual physical traces of a person. The impact may not always be benign or beneficial for the individual or for society. So we have another puzzle: there is the constructed continuous digital beingness without the physically being 'alone' of the digital native who nevertheless can be simultaneously physically separate from another human being. The former is not able to be alone in the way Mandela suggests is vital for independent, autonomous thought and survival. The latter is, if sufficiently resilient, under duress.

Is our sense of freedom and self-determination illusionary? Are we all digital natives in some lesser or greater respect? And are we all unconsciously occupying a digital space via our shadows of digital engagement? Could we be unaware of how those spaces are or can be accessed by automated algorithms and processes for undefined or re-defined purposes alien to the reason for which we first left our digital footprints? What are the ethical implications for society and individual and collective freedom?

ABDICATING POWER AND INDIVIDUAL RESPONSIBILITY TO THE DIGITAL?

If information is power (over, to influence, to sell, to compromise, undermine dignity, equality, decent life) can digital gatekeepers, trackers and connections be harnessed to forge collective, universally acceptable, just, legitimate and valid ethical values and society? The European Charter of Fundamental Rights guarantees human dignity, something that can be debased by either human agency or by the way in which artificial intelligence comes to discriminate one human from another. Without human agency, the Charter can display commitment to protect robustly the independence of the judicial order in the member states and the rule of law in the EU but it relies on human protection and compliance to provide a stable foundation for democracy. The way in which digital spaces are manipulated and compromised threaten both. Digital vulnerabilities are nuanced but universal.

It is notable that EU leaders see 2021 as a moment of truth for the concepts of democracy, liberty and justice. The Portuguese Presidency depicted EU citizens, EU institutions and EU member governments as co-owners of democracy, enabled and underpinned by the Charter. As yet, the solution to reinforcing the will and capacity of humans to uphold its ethical values and goals has not been found. The Conference on the Future of Europe launched in May 2021 may address this.

As we have seen, information can be (mis)used by humans and AI for ethical, therapeutic or disreputable purposes. While the human brain is changed by reliance on AI and instant gratification permitted by the smart device or implant, does the human implicitly assume that the AI will act ethically? In 2007, Lodge suggested that algorithm biases were implicit and needed to be made explicit, but saw the possibility for doing so as compromised by business-use imperatives and by the difficulty of finding the will to attain a cross-cultural understanding of techno-ethics and the challenges of realising them. Bias is embedded in the sifting and discrimination implicit at automated border controls; in e-health access; in the digital divide.

The underlying assumptions of programmers creating algorithms (and those created automatically by AI and learning machines) must be interrogated for bias towards a predetermined conformity if we are to

realise an ethical AI future beneficial to mankind. Do we have a vision of what the contours of an ideal future might be that can accommodate diversity? Can we envision creating dialogue and communicating across cultures to identify and reach consensus on what it might be and how we can determine it? We have to be autonomous and aware of bias, of the need to recognise and uphold human dignity and the precautionary principles underpinning ethical endeavour. We have to be free to communicate and free to think. As Mandela makes clear, the precondition for creating an information- and communication-free society, based on mutual respect and equality before a just rule of law, is a common will to search and find the basis of that vision.

TOWARDS DIGITAL EMANCIPATION AND A FREE SOCIETY?

Rafael Capurro (2020) reminds us how something morally evil can be understood as the will to achieve something that implies, in the final analysis, the annihilation of this will. Looking at the deceits and manipulation of information and communication via bots, dark and fake news, to subvert transparency and oppress (as exemplified by anti-vaccination social media, Brexit and the British approach to managing the Covid-19 crisis), it is clear that exclusion and inhumanity became ever more prominent: a goal and not just a tool of power. In that respect, the information vulture is black, avaricious, unbending and exclusionary.

Dark algorithms pre-select the vulnerable as the target of misinformation to encourage them to use their human voices to support a dark intent. The more they consume and believe what they find in digital spaces (even down to drinking bleach to avoid Covid-19 infection, but destroy their gullets thereby), the more groupthink predisposes them not to question, not to think and to stick by their original convictions regardless of contrary information. Emancipating the mind, the capacity or will to think has been suppressed by default and without the consent or conscious awareness of the (usually individual person) target. This implies a need for the public to be educated as to the promises and purposes of AI, and to its potential for good – as in the accelerated search for drugs to combat Covid – and to inhibit individuals falling prey to the darker side.

AI itself exists across the internet of things and digital society. Its diversity of use and purpose may liberate humans in some instances. But machine-to-machine learning, adapted to pre-empt independent, contrary thought, presents a potential existential threat to human dignity and human autonomy. Both groupthink biases and bad decisions can be self-reinforcing, and the possibility is ever-present of secret thought plundered by machines able to detect brain patterns associated with non-compliance or forms of thought that may imply as much. As a result, the independent evidence-based routes to upholding rule of law, justice and ethical behaviour that democracies like to say they represent are open to being compromised: their transparency and accountability is undermined. Secrecy and transparency are fundamentally undermined by automated decision-making that transforms our understanding of where we begin and end, of self and society, and transform our perception of the idea of appropriate disclosure. Secrecy is part of a continuum of transparency and accountability that cannot be reliably sustained and mediated by automated decision-making devoid of human curiosity. Do we need an ethics of secrecy derived, perhaps, from our understanding of the potentially harmful effects of automated disclosure?

At the same time, the narrative of the machine, of artificial intelligence, freeing us from having to spend time making mundane choices is readily presented as emancipation, freeing the self from the routine business of choice – whether consumer goods, meals, leisure pursuits or environment. The message is – no need to think, on the basis of what we know about your choices in the past and what we want to persuade you to buy, consume, think – do this. Tracking enables this. It is Janus-faced: emancipatory in terms of immediate gratification – offering access to possible options – but imprisoning in pre-selecting and therefore limiting choices to that which someone or something else has chosen as 'appropriate' for you. The self is therefore put into a consumer bubble of a sort: ethnic group, possession of papers of entitlement to be recognised as a valid citizen of a geographically defined space, political affiliation, age, family, geo-location, socio-economic status, health, education status, cultural or artistic abilities. That bubble may be emancipatory and expansive or constrictive as it limits the choices presented: the twitter echo chamber of confirmatory expectation and voice. Or, where free will has not been dampened and oppressed, it may burst and freedom to dare to think may thrive and explore the horizon of unlimited

possibilities. Harnessing that with artificial intelligence may be the way to capture the potential of digital society to enrich it and ensure ethical futures.

CONCLUSION

When the human is rendered unnecessary to digitally automated interaction and communication, society faces dehumanisation. The digital, biometric interoperable identity token is both a key to freedom to roam in physical and in digital spaces so long as it works across different systems and is accepted as a genuine, trustworthy token representing the physical authentic self.

That token is both liberating and binding. It is liberating in transactions, discriminatory and disempowering for those without the means to acquire or use it and liberating for bureaucracies and companies replacing human interaction with AI. It can be liberating as a symbol of belonging to something aspirational or valued, including tokens of identity issued by states which value basic freedoms and uphold them. Yet, for the individual, the same tokens tied to automated decision-making can become chains and constraints on human dignity, autonomy, the exercise of free will, and freedom to explore and communicate in virtual and physical spaces.

However, these AI and automated ecosystems also symbolise something transcendent. The more universalised they are, the more they illustrate the great teaching of Mandela that freedom is certainly interpreted by socio-economic, political and cultural experience. Ultimately, freedom is un-bound: it is a realisation of our universal humanity. What we have in common is more enduring than the plastic or paper, chipped tokens with which our identity may be asserted and verified, and surveilled and tracked in order to liberate or enslave us.

The partial and qualified expression of humanitarian values is signalled in the limited interpretation and realisation of the EU's freedom of movement and Charter of Fundamental Rights. It is important to have a dream; vital to try and realise it. Legal assertion (such as article 1 of Germany's Basic Law – its Constitution – asserting human dignity as inviolable) and enforcement are intrinsic to freedom. It is essential to have the courage to speak truth to power in order to take the steps to turn a humanitarian dream into a living reality, imbued by humanitarian ideals and by appreciation that human

dignity must be defended to sustain freedom. For that, the human mind must be autonomous, free to think and ready to dare to think. So far, the human mind is not dependent on artificial intelligence and e-linkage to do that. If humans can communicate autonomously, then they can create ethical parameters for deploying automated decision-making and artificial intelligence. They can decide to use AI as a tool and not as a substitute for human thought and interaction. They must do so to avoid entrapment and an invisible hand eroding freedom. Automated decision-making transforms our understanding of where we begin and end, of self and society.

Mandela's teachings are as relevant in our cyber world as they were 30 years ago. It is a mutual responsibility of humans to agree and uphold ethical practice in order to create politically and socially responsible communication and engagement, whether it is AI led or human-to-human, and thereby sustain human accountability for AI and human responsibility for humans as well as for their digital beings. That is not something that should be abdicated to AI and the inflexible, biased algorithms that reinforce bias and arbitrarily, speedily discriminate and categorise to deliver a 'solution'. Without effective technological governance to sustain the integrity of open, free communication and understanding, and without ethically informed and human accountability to uphold human autonomy, equality and dignity, an ethical cyberspace for the future is unlikely to be universalised. Ethics codes by themselves are not going to be enough. Universal norms and digital ecosystem frameworks, legislation and enforceable regulations urgently need to be re-visited if the digital world underpinned by AI and machine learning is to be fit and appropriate to the best of human endeavour. Unless we are able to critically interrogate information and use the strengths of AI ethically to enhance our own knowledge and understanding, as well as a fast-paced digital ecosystem, we face a techno-dystopian darkness. So we must address how inter-cultural understanding can be forged and used to deliver technological ecosystem governance to ensure we make responsible use of, and are accountable for, automated decisions by autonomous systems whether they are embodied in recognisable physical smart devices and robots or invisible in digital space. Distributed artificial intelligences connecting the natural and artificial to humans are a power for good or ill. Humans have the capacity to muster inter-cultural communication and knowledge and must show the will to do so.

The dissolution of physical and virtual borders places great responsibility on those who are in a position to communicate authoritatively to do so in all humility together; to recognise their own biases and limits of their own knowledge; to seek out difference and to find and understand the ethical core of honesty and consensus; and to uphold the ethical values and principles in showing what it is to be human inside physical and transcendent digital spaces. We are all 'the other'. We are all 'us'.

As Capurro reminds us, Nelson Mandela's life and work show the dark side of society in which information and communication are subject to oppression and exclusion that turns out to be inhumane, that is to say, morally and politically unsustainable. That is our fate, if we do not instruct and use the power of AI ethically to facilitate critical scientific thinking for the good of all in trying to realise an ethical, humane and free digital society.

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Information justice in Africa: Insights on information ethics connected to Nelson Mandela's thinking

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'[…] we must bring the benefits of science and technology to all our people.'
(Mandela, 1993)

INTRODUCTION

This chapter deals with questions of freedom, equality and justice in the thinking of Nelson Mandela and how this applies to questions of information ethics. How can we create equal opportunities in a global context and especially in Africa when companies from China and the United States provide educational programmes, content and infrastructures in a dominant and rule-setting way? How can we come to a fair assessment of these and other (including non-profit) initiatives regarding questions of neo-colonialism on the one hand and useful collaboration on the other? This contribution adds to the debate on the impact of digitalisation on human wellbeing and empowerment by taking an information ethics perspective. We wish to highlight two separate, but interconnected, issues that may impede the positive impact of information and communication technologies (ICTs) on the wellbeing and empowerment of people in Africa: the value-ladenness of (exported) ICT and its ethical and societal implications as well as the power inequalities in and (new) dependencies created by digitalisation

initiatives. In so doing, we attempt to contribute to answering the question: how can we realise an equal and fair global digital society?

When Nelson Rolihlahla Mandela was born in 1918 in a village near Mthatha, digital communication and the internet were far beyond imagination. Not even electronic media such as television and radio played a role. When Mandela died in 2013, many regions of the world, including South Africa, faced a digital transformation that also transformed the way people participated in social life, politics and the economic sector.

Shaping technology also means shaping society. The importance of participation and justice for a successful combination of social progress and technological development was a natural part of Mandela's thinking. Information and media technologies play a particularly important role here, as they are a powerful and sometimes disruptive instrument of social transformation. They change the way we obtain knowledge about the world and about each other, and they open up new scopes for individual, political and economic action. They are a crucial foundation of individual expression and of public discourse, and they are a place for critical engagement with government and administration. In this light, Mandela consistently emphasised the importance of media freedom, freedom of information and individual freedom of expression. Digital technologies, and the internet in particular, have led to new freedoms of individual communication. At the same time new issues have come to the fore such as hate speech, disinformation, or a selective perception of reality through communication in so-called echo chambers (Vaccari, 2013).

Information technologies are not only media for a new kind of interactive communication, they are also tools of everyday life. They change the way people work, how they organise their private life, how companies earn money and participate in (global) markets – they are the technical condition for the data industry as a new branch with dominant economic power (Zuboff, 2019).

Due to the depth of their social impact, it is pivotal to shape ICTs in a welfare-oriented way. The implementation of values such as privacy, freedom from discrimination or participation in the development of a digital society is therefore a prerequisite for a democratic and sustainable course of action. This is where information ethics starts from: information ethics is a branch of applied ethics that focuses on web applications, information management and the general use of computers. It is concerned

with questions of a just and free distribution of information, of autonomy and power on the internet or of a value-oriented design of IT systems.

Even if Nelson Mandela did not explicitly refer to information ethics, he can be seen as an early representative of central ideas of information justice and communicative participation. This chapter spells out what justice and equal opportunity mean for digital transformation processes in African countries. Although each country has its own preconditions and regulations with regard to digitalisation processes, it is possible to identify structural conditions and power relations that are relevant to many regions of Africa, and to other world regions' interactions with the continent in terms of digitalisation.

AFRICA AND THE (GLOBAL) DIGITAL DIVIDE

According to the International Telecommunication Union (ITU), only 29 per cent of individuals in Africa were using the internet in 2019, as compared to 51 per cent worldwide (ITU, 2020: 7). There are also great disparities concerning internet usage between African countries: while some Northern African countries have usage rates of 60 per cent or more (Morocco: 74 per cent, Tunisia: 67 per cent and Algeria: 60 per cent), only 1–4 per cent of the population in Eritrea, Somalia, Burundi, Guinea-Bissau and the Central African Republic uses the internet (World Bank, 2020). Africa exhibits the lowest levels of internet connectivity and usage worldwide. Hence, there is a global 'digital divide' between these countries – commonly identified as part of the Global South – and the Global North. The term 'Global South' refers to 'regions outside Europe and North America, mostly (though not all) low-income and often politically or culturally marginalized' and with a 'history of colonialism [and/or] neo-imperialism' (Dados and Connell, 2012: 12–13). The expression reflects a recent focus in academia and so-called development cooperation on global power relations (ibid.). Besides the digital divide between the Global North and Global South, 'the digital divide is more striking at the subcontinent or country levels' (Cariolle, 2018: 9).

These divides are further exacerbated by within-country gaps. In Africa, the connectivity statistics in rural areas are particularly 'alarming' (Ocholla, 2011: 10): only 6 per cent of rural households have internet

access at home, compared to 28 per cent of urban households – and 37 or 72 per cent, respectively, worldwide (ITU, 2020: 6). There is also an age gap in internet use; younger people use ICTs more (ITU, 2020: 7). Particular attention is often paid to the so-called 'gender digital divide'. Girls and women generally have lower ICT literacy rates, less ownership of devices, and therefore less access and use (Schopp et al., 2019: 14). This is a global phenomenon, seen, for instance, in Latin America as much as in Africa, where it has been demonstrated in numerous studies (e.g., Mumporeze and Prieler, 2017). In Kenya and Nigeria, by way of example, gender inequalities persist in the form of exclusion from economic opportunities and decision-making, gender-based violence and biased cultural practices (Basu, 2018; Indangasi et al., 2016). Opportunities to access ICTs and benefit therefrom are thus deeply gendered (Buskens and Webb, 2009). Accordingly, ITU statistics show that only 20 per cent of African women use the internet, compared to 37 per cent of men (ITU, 2020: 8).

Thus, despite all digitalisation efforts of the past decades, many Africans still have no access to the internet. The global digital divide persists, i.e. global inequality in terms of access to and use of ICTs, in particular computers, mobile phones and their networks, and the associated infrastructure (Van Dijk, 2006: 221–22). This is coupled with 'human factors' such as a lack of relevant skills (Bornman in Nyahodza and Higgs, 2017: 39).

The causes of the digital divide are manifold. Many countries on the continent lack the financial and technological resources to create 'a well-developed information and telecommunication infrastructure' (Pantserev, 2015: 21). Besides limited or no access to ICT devices and services, these include the high cost of airtime or data, and weak ICT infrastructure. While mobile phones are prevalent in Africa, bandwidth is scarce, and the cost of internet access constitutes a significant percentage of a user's income (Majama, 2018; Kemp, 2018). The arrival of fibre submarine cables in Africa since 2009 has efficiently linked the continent to internet services and has, for example, led to a rise in (skilled) employment (Hjort and Poulsen, 2019: 1034). However, many countries are now 'digitally vulnerable' to submarine cable outages and the cables have exacerbated access gaps between coastal countries and those inland, as well as (rich) urban and (poor) rural areas (Cariolle, 2018: 3–4). Some analysts also attribute high prices in many economies to a poor governance of the telecommunications sector (Sutherland, 2014: 2–3). According to the Economic Commission for

Africa, policy measures could increase access and internet use, including a liberalisation of telecommunications markets and 'enabling legal and regulatory frameworks', for example those concerning 'cybersecurity, personal data protection and privacy, digital payments and […] financial technology startups' (UNECA, 2020). Infrastructure (management) and affordability thus remain important issues on Africa's digitalisation agenda (Schopp et al., 2019: 13).

Government shutdowns and associated repressive policies also constitute notable political barriers to people's access to information and ICTs in many countries. In 2020 alone, Ethiopia shut down the internet in July following protests sparked by the murder of a prominent Oromo musician, and social media shutdowns accompanied nation-wide elections in Burundi and Tanzania that same year (Access Now *16.07.2020, 20.05.2020, 16.12.2020*). In January 2021, the internet was blocked, and all social media and messengers shut down in Uganda after Facebook deleted several pro-governmental accounts for manipulating the political debate ahead of the parliamentary and presidential election (Kafeero, 2021). People handling sensitive information and fighting for democratic ideals, for instance, human rights advocates and journalists, are particularly negatively affected by such crackdowns on free speech. These so-called blackouts also impede education and healthcare provision, in particular for vulnerable groups – a problem exacerbated in the current Covid-19 pandemic (Human Rights Watch, 2020). Shutdowns also negatively affect the economy, impinging on the promise of prosperity through digitalisation (Jacobson, 2019).

The gender digital divide often persists as preconditions for women's participation in digitalisation are lacking due to enduring structures of inequality (Kemitraan, 2014). Social, economic and political factors are therefore crucial. Women's access to ICTs is often impeded by patriarchal structures and cultural practices by male and female actors who consider internet content inappropriate for wives and daughters. Also, such actors may fear that women will neglect their household and family responsibilities, which are ascribed to them based on traditional gender roles (Majama, 2018; see Schopp et al., 2019: 14). Gendered violence online, including doxing, stalking, bullying and revenge pornography, also impedes women's use of ICTs (Segrave and Vitis, 2017). Consequently, mostly men take advantage of opportunities for participation (Kemitraan, 2014).

Poverty and other socioeconomic factors may also impede access

(Owuato Odongo and Cheruiyot Rono, 2016: 86–87). Even when such access can be assured, users may not benefit from ICTs due to a lack of confidence or interest, which can cause the 'technology-is-not-for-me syndrome' in particular among women (Wakunuma, 2018). Users may also lack relevant skills. Illiteracy is widespread in many regions in Africa and impedes people from using most ICT systems as intended. Also, English remains by far the most dominant language in ICT systems and exported technology is often not available in local languages (Sègla, 2019: 50–51). Language barriers thus constitute another major challenge. Lastly, users may, for example, lack information literacy skills or basic electronic data processing knowledge required for an independent use of ICTs (Toffa, 2018).

ANTICIPATED DIGITAL DIVIDENDS

There is a great need to bridge the global digital divide (as well as within-country divides) (see e. g. Canellopoulou-Bottis and Himma, 2008). Those without access to ICTs are regarded as seriously disadvantaged or even excluded from participation in 'the most relevant fields of society' (van Dijk, 2006: 226). Overcoming the digital divide is assumed to have positive transformative effects on a wide range of economic and social factors in under-connected world regions – so called 'digital dividends' (Evans, 2019: 47). This has led to the emergence of an entire field of academic study and development practice, that of 'ICT for Development' (ICT4D).

ICTs are believed to increase productivity and economic prosperity. Some even hope ICTs will transform African economies from a 'reliance on agriculture and extractive industries' towards a 'knowledge-based' economy (Graham and Foster, 2016: 78). ICTs provide farmers and businessmen, including those living in rural areas, with vital information about market prices, weather conditions, veterinary care and more, creating a competitive advantage and enhancing production (Bohlken, 2004: 78; Merlin et al., 2006: 61–62). WhatsApp groups are often used to this end (Scoones, 2020). Additionally, ICTs increase opportunities to advertise and sell products nationally and globally (Alzouma, 2005: 341), facilitate interactions with business partners (Bohlken, 2004: 78), and job searches (Mansell, 2002: 423). ICTs also allow people to 'avoid unnecessary travel

and to conduct a variety of socioeconomic transactions conveniently', creating crucial 'monetary and time savings' (Otiso and Moseley, 2009: 107). Mobile money and remittance services are important economic drivers (Evans, 2019: 49). For example, innovative pay-as-you-go services, often combined with mobile money, allow improved water, sanitation and energy services such as household-level solar services (GSMA, 2020: 34). In rural areas, they support solidarity and welfare nets (Scoones, 2020: 27). Also, ICTs strengthen the tourism sector by attracting visitors (Otiso and Moseley, 2009: 108–109). According to the industrial association GSMA, 'in 2019, mobile technologies and services generated 9% of GDP in Sub-Saharan Africa – a contribution that amounted to \$155 billion of economic value added. The mobile ecosystem also supported more than 3.8 million jobs (directly and indirectly) and made a substantial contribution to the funding of the public sector, with almost \$17 billion raised through taxation' (GSMA, 2020: 27).

ICTs can increase the efficiency of public service provision and administration (Ndung'u and Signé, 2020). Politically, the internet has been heralded as 'one of the most powerful instruments of the 21st century' to further democracy (UN Special Rapporteur on freedom of expression La Rue, 2011: 4). Even though it is often first adopted by (national) elites, it is hoped that the wider population benefits over time. The internet offers opportunities for communication and (anonymous) freedom of expression, and additionally access to (multiple sources of) information, even in politically oppressive environments (Kunst, 2014: 56–57). This may shape individuals' and public opinion, increase citizen participation (including by marginalised, often rural groups) and governmental accountability, strengthen civil society, human rights and gender equality (Kettner, 2004: 158). In authoritarian systems, ICTs can 'aid […] the diffusion of ideas about political transitions in other countries', allow the networking of civil society and political activists, enlarge the often pro-change middle class, 'expos[e] undemocratic practices to the international community', and enhance the efficiency and conduct of governments (Otiso and Moseley, 2009: 110). Similar to a Habermasian ideal speech situation, the idea is that democracy will flourish when everyone can voice their opinion and participate (Ess, 2018). These arguments are echoed by advocates of access to the internet being a human right (Tully, 2014; Wicker and Santoso, 2013). According to Mathiesen (2012: 14–15), the freedom of communication

enabled by the internet is even a 'linchpin right' crucial for guaranteeing 'our ability to exercise [all other] human rights'.

Major benefits are ascribed to ICTs in the sphere of education, ranging from more efficient and even autonomous learning by (school) children to improved literature research and international networking opportunities for (African) scholars (Kunst, 2014: 15–16; OLPC, 2016). Most of the scientific research currently conducted would be impossible without the internet, or at least of much lower quality (Bohlken, 2004: 76–77). ICTs are seen as central tools to keep in contact with family and friends (Bailur et al., 2015: 52). It has also been suggested that ICTs may contribute to creating a global outlook (Omojola, 2011: 39) and international solidarity.

Many ICT4D initiatives are based on the idea that ICT access leads to the empowerment of girls and women. This includes increased political participation and collective action, but also social capital and civic engagement, as well as access to relevant information, such as information on health care and nutrition. Besides, women particularly benefit from mobile money services (Ndung'u and Signé, 2020). ICTs may also strengthen female users' self-esteem (Bailur et al., 2015: 52). Buskens and Webb (2009) have argued that ICT access can lead to women's participation, but that the effects of ICT access depend on the socioeconomic and cultural context.

Great potential has long been seen in ICTs for improving health care in countries of the Global South: ICTs can provide professionals and lay persons with medical information and the opportunity to consult with clinicians worldwide, can increase hospitals' efficiency or simply 'remind patients to take their medicine' (Kunst, 2014: 14; see also Wresch, 2009: 261). Tracking apps offering medical advice and remote diagnoses may help counter and prevent epidemics, as was demonstrated during the 2014–2016 Ebola outbreak (Gallo, 2015). The Covid-19 pandemic further highlights ICTs' significance for improving public health and countering health crises in countries across the world (as well as its indispensability for the continuation of economic and administrative processes during the pandemic). As early as the first half of 2020, African countries had deployed contact-tracing apps, information apps and websites, chatbots, hackathons, drones and even robots to provide relevant information on Covid-19, combat fake news and manage the pandemic (UNECA, 2020: 11–14).

Lastly, ICTs, in particular games and social networks, can be a source of entertainment. This is often dismissed as a 'non-instrumental' and less

valuable use by development practitioners and analysts (see for example Hongladarom, 2004: 86). However, entertainment drives the uptake of ICTs, can foster digital literacy, and even make 'useful' applications more attractive (Bailur et al., 2015: 25, 55, 75). Also, 'play' itself is a central human need and capability (Nussbaum, 2014: 114).

DIGITALISATION INITIATIVES IN AFRICA

ICTs are thus not valuable 'for their own sake', but due to their 'transformative potential' (Nyahodza and Higgs, 2017: 39). Consequently, the digital divide has received much attention by policymakers and development organisations: the United Nations (UN) has identified the digital divide as a global challenge. ICT4D was incorporated into the UN Millennium Development Goals and the ensuing '2030 Agenda for Sustainable Development' (UN, 2015: 5; Wresch, 2009: 255). Closing the digital divide is considered a prerequisite for achieving the Sustainable Development Goals (UN Women, 2018). Digitalisation also plays an important role, for example, in the German Ministry of Economic Cooperation and Development's 'Marshall Plan with Africa', which is intended to guide the future cooperation between Germany and African countries (BMZ, 2017: 4, 31).

Numerous actors have launched initiatives to implement ICTs on the continent. These include international organisations such as the UN, the Group of Seven/Eight (G7/G8) and the European Union (EU), local and foreign national governments, inter-governmental bodies such as the African Internet Governance Forum, and development organisations. By way of example, the African Union–European Union Digital4Development Hub initiated by 11 EU member states became operational in January 2021. It aims to provide a multi-stakeholder platform to foster a sustainable and human-centric digital transformation in Africa (Futurium, 2020). Such initiatives, as well as many by multinational corporations like Alphabet (Google), Microsoft and Facebook, often claim to be driven by the idea of closing the global digital divide. They frequently involve the export to Africa of technologies developed in Europe and North America.

Besides Europe and North America, China is also an important player in digitalisation in Africa. China is technologically advanced and

has reached a 'high human development category' according to the UN (UNDP, 2019). Nonetheless, it is still widely regarded as part of the Global South due to its relatively low per capita income and its political alignment within BRICS, amongst other factors. Infrastructure building lies at the 'heart' of China's Belt and Road Initiative, which is central to the country's international influence (Shen, 2018: 2683–2684). Within this framework, China and Chinese internet giants are aiming to build an 'online' or 'digital Silk Road', and have made massive investments to build a transnational network infrastructure through submarine, terrestrial and satellite links (Shen, 2018: 2684, 2691). Shen (2018: 2684–2685) argues that 'the Chinese leadership has assigned its Internet companies a central position […] to achieve five major policy objectives: cutting industrial overcapacity, enabling corporate China's global expansion, supporting the internationalization of the renminbi (RMB), constructing a China–centered transnational network infrastructure, and promoting an Internet-enabled "inclusive globalization".' By way of example, China supports many digitalisation projects in Kenya, and tech giant Huawei is, for example, involved in a national fibre-optic infrastructure project, as well as ICT skills trainings (Calzati, 2020: 4954).

THE DIGITAL DIVIDE AS A QUESTION OF (GLOBAL) JUSTICE

Since the term digital divide originated in the mid-1990s, it has inspired academic debate in diverse fields, including sociology, library science, economics and development studies, where the new research area of ICT4D emerged.

The issue of (global) justice is also receiving increasing attention in philosophical analyses of the digital divide. Justice is a basic concept of ethics that can be traced back to ancient philosophers such as Plato. Contemporary philosophy distinguishes numerous forms of justice in many different fields. Thereby, Rawls's conception of justice is one of the most seminal contributions, which has inspired the development of a new strand of philosophy on the feasibility and implications of global justice (Heilinger and Pogge, 2015: 304–305).

Several authors have applied Rawlsianism to the digital divide. They argue that information plays a major role in every person's life irrespective

of one's preferences: it is 'necessary for rational life planning and for making rational choices' (Van den Hoven and Rooksby, 2010: 382–384). In the information society, access to (essential) information should thus be added to the list of Rawlsian primary goods (Britz, 2004: 195; van Dijk, 2005: 231). These are goods every rational person wants, requires and is eligible to receive to a certain extent, according to Rawls's (2014: 83) principles of justice. Consequently, global information justice must be a central goal of any future world society (Weber, 2004: 119). Mandela, too, highly valued the potential of information to raise the standard of living. In his speech to the Academy of Science of South Africa in 1996, Mandela referred to the establishment of the Ministry of Science and Technology whose 'mandate includes a far-reaching transformation of our [the South African] science and technology system, in order to bring knowledge to bear in promoting growth and development to improve the quality of life of all South Africans' (Mandela 1996). He directly links knowledge (arguably based on information) to people's improvement of their lives.

The capability approach developed by Amartya Sen and elaborated by Martha Nussbaum and others is another seminal contribution to the contemporary global justice debate. Several authors apply it to the digital divide (e.g. Johnstone, 2007; Oosterlaken and Van den Hoven, 2011; Zheng, 2009). The capability approach argues that all humans need to be able to develop a minimum level of several distinct capabilities in order to live a dignified life (Nussbaum 2014: 104–105, 392). Thereby, people's freedom to choose between different ways of life is inherently valuable (Krüger, 2013: 255). Justice is achieved if everybody has the freedom and ability (i.e., is empowered) to achieve a certain state of wellbeing (Johnstone, 2007: 75–77). Thereby, people's capabilities depend on their resources (including technologies), on personal choices, and on mediating personal and socio-political 'conversion factors' that influence their ability to exploit given resources (Krüger, 2013: 282–283). These include age, gender, location, policy environment, education, and the ability to process, evaluate and use information (see for example Alampay, 2006: 12–16).

Concerning the distribution of relevant resources, Mandela emphasised in 1990 that 'the political and economic haves are White and the political and economic have-nots are black' (Mandela, 1990). The resource distribution in South Africa was dependent on conversion factors such as access to and quality of education or political and societal standing and influence, which

were highly unjust at that time. Mandela then linked these differences to the improvement of 'the quality of life of all the people' (ibid.), which must be guaranteed by the state if resource distribution and conversion factors differ to such an extent.

According to the capability approach, there exists a collective (global) obligation to provide everybody with the minimum set of necessary capabilities (Nussbaum, 2014: 377, 384). It is arguably a variant of human rights approaches (Nussbaum, 2014: 390–391) and has heavily influenced the development practice of international organisations such as the UN, of non-governmental organisations such as Oxfam and of individual governments. In the context of ICTs, it mirrors the debate about a potential 'human right to [the] internet' (Mathiesen, 2012). In this vein, Mandela argued in 1993 that the South African people were putting too much effort in everyday tasks to raise their standard of living without appropriate technologies (Mandela, 1993). When Mandela gave a speech at the 53rd United Nations General Assembly in 1998, he even argued that the world's divide exists due to human failure to realise the Universal Declaration of Human Rights: 'The failure to achieve the vision contained in the Universal Declaration of Human Rights finds dramatic expression in the contrast between wealth and poverty which characterises the divide between the countries of the North and the countries of the South and within individual countries in all hemispheres' (Mandela, 1998). This perspective is in line with human rights-based arguments for closing the digital divide. It also aligns with the perspective of Sustainable Development based on the normative foundation of intra- and intergenerational justice.

Scholars have argued for bridging the digital divide based on the World Ethos idea (Frühbauer, 2004). Cosmopolitan positions based on the idea that every person in the world is of equal, ultimate normative importance (see for example Unger, 1996) may also prove fruitful here, as may rights-based arguments (see e.g. Shue, 1996 on subsistence rights). African philosophical concepts and contributions may also enrich the debate, for example Metz and Gaie's (2010) ideas on global justice drawing on the concept of 'Ubuntu'. There is a growing strand of reflection on data and informational justice (see e.g. Heeks and Renken, 2016) that may enhance philosophical reflection on the digital divide.

TECHNOLOGY DOES NOT GUARANTEE SOCIAL PROGRESS

This chapter shares the opinion that it is a question of (global) justice to overcome the digital divide. This will allow people in under-connected world regions to use and benefit from ICTs and to become empowered. In this vein, Nelson Mandela stated the need to 'bring the benefits of science and technology to *all* our people' in a speech in 1993 to the Centenary Conference of the South African Institution of Mechanical Engineers (Mandela, 1993, emphasis added). This would enable 'economic growth, and meeting the needs of *all* our people' (ibid., emphasis added). In 1995, in a speech to the Union of Radio and Television Networks in Africa, Mandela specifically recognised 'the potential of new technologies to build bridges' and to provide people with information needed for them to become empowered (Mandela, 1995).

However, as shown above, digital divides between Africa and other world regions, individual African countries, but also within countries, persist – despite past and ongoing digitalisation efforts in Africa by international and domestic actors. Many Africans still have no internet access, and this holds particularly true for rural and older people and women. Moreover, many of the benefits associated with ICTs have not materialised – neither on the African continent nor in most other parts of the world. To date, the internet has not brought peace, democracy and prosperity to all African countries and ICTs have neither ended gender-based discrimination nor granted all Africans access to good health care.

This is striking given the optimism commonly accompanying digitalisation initiatives over the past decades. In fact, it contradicts a widespread 'technological determinism' that ICTs can and will somehow 'automatically' lead to positive change. This 'techno-utopia' is common and apparent among many ICT4D initiatives, although it is neither true for the Global North nor the Global South. It assumes that technology has a positive impact on societal and cultural processes while disregarding that technology and society are mutually constitutive. Technological determinism accordingly neglects the influence of historical, societal, institutional, infrastructural and cultural factors on societal transformation processes connected to technology (Walsham et al., 2007: 322).

We argue that digitalisation can but does not automatically enhance

positive social, political, economic and societal transformations. The relation between digitalisation and positive transformations is complex and mediated by many factors. In this vein, Galperin and Viecens (2017: 315) suggest that

> the development pay-offs of internet technologies are ambiguous due to two interrelated effects. First, because effective appropriation requires a range of skills as well as complementary investment in human capital and organisational changes. This tends to favour well-educated workers and firms with more innovative capacity and access to finance. Second, because the positive effects of internet dissemination on market co-ordination and political institutions grow exponentially with adoption levels. As a result, [...] advanced economies are reaping significant benefits from internet investments, [but] the returns for less advanced economies, and in particular for the fight against poverty in these regions, remain uncertain.

Besides skills and adoption levels, the impact of digitalisation efforts on development is mediated by many other factors, including infrastructural conditions, the cost of ICTs, existing gender roles and other social and cultural hierarchies, local support and intentions, and the efficiency of governmental organisations and businesses (see e.g. Alden, 2003; Díaz Andrade and Urquhart, 2010; Toyama, 2015).

This contribution adds to the debate on the impact of digitalisation on human wellbeing and empowerment by taking an information ethics perspective. We wish to highlight two separate, but interconnected, issues that may impede the positive impact of ICTs on the wellbeing and empowerment of people in Africa: the value-ladenness of (exported) ICTs and their ethical and societal implications, and the power inequalities in and (new) dependencies created by digitalisation initiatives. These aspects are often neglected in digitalisation efforts and deserve more attention (see also Schelenz and Schopp, 2018 on these concerns, and ICTs' negative environmental impact). In so doing, we attempt to contribute to answering the question: how can we realise an equal and fair global digital society?

TECHNOLOGY IS NOT NEUTRAL, AND THE INTERPRETATION OF VALUES DEPENDS ON THE CONTEXT

Many digitalisation programmes in the Global South are based on the export of technologies developed in the Global North and China. Technology developers, like all human beings, do not have a neutral mindset since they live in value-shaped societies. Hence, the technologies they develop reflect the norms and values the society is based on as well as those held by the individual developers (Simon, 2016). Therefore, philosophers of technology and information ethicists argue that values are embedded in technology and that technology can never be neutral. Academic disciplines and practical fields such as technology development, innovation research and several approaches to 'values in design' have also shown that the establishment of specific technologies is associated with certain needs, interests and values. According to cultural studies and the philosophy of technology, technology is 'socially shaped and constructed' and reflects the 'interests and beliefs of [specific] social groups' to a certain degree (Zheng and Stahl, 2011: 73). Value preferences can be embedded unintentionally or intentionally. They may reflect pre-existing individual or societal biases or be the driver behind the technological innovation in the first place, but they may also arise from technical constraints and considerations or unintentionally emerge with the use of the system in a new social environment (Ellul, 1964). Embedded values are particularly pertinent when it comes to software as this technology 'plays an increasingly important role in our lives' and no longer deals with only technical, but also semantic, social and cultural problems (Rieder and Schäfer, 2008: 164, 167). The 'embedded values approach' in computer ethics by Nissenbaum (2005) calls for a 'theory and methodology for moral reflection on computer systems themselves' largely independent of their usage, as they 'are not morally neutral' (Brey, 2010: 41). Instead, ICT systems stand for specific conceptualisations of a 'good' society and appropriate ways of living and thinking.

The built-in value-ladenness of technology has, albeit rarely, been noted in the context of the digital divide (see e.g. Graham and Foster, 2016: 83; Kleine, 2011: 120; Mansell, 2002: 409–410). Alzouma (2005: 344) states that 'ICTs themselves are based on some epistemological assumptions, which constitute their core values and which could contrast

with some cultural values or identities and [self–]representations in Africa'. Thus, digitalisation through value–laden technology is a sensitive topic, especially in the African context. Here, the export of foreign standards and values through technology may resemble the imposition of norms during colonial times (Schopp et al., 2019: 15). Also, technical 'solutions' developed in the Global North are often based on stereotypical views of Africa as a continent of 'hunger, disease, migration, drought, and poverty' rather than as a vibrant cultural space with great potential (Birhane, 2020: 409).

Additionally, different societies can interpret and define the same values in different ways: the relatively new field of intercultural information ethics argues that information ethics to date is dominated by philosophy from the Global North, and wrongly assumes its universalism (Capurro, 2016). Intercultural information ethics, on the other hand, argues that there are 'irreducible' cultural differences on issues such as privacy (Ess, 2005: 1). There is consequently a need for 'an informed and respectful global dialogue' to establish an 'information ethics […] that respects and fosters those elements of specific cultures that are crucial to their sense of identity' (ibid.). These depend on different factors such as religion, or the political system a society is shaped by. Diverse cultural points of view should thus be considered and integrated (Ess, 2018). Some authors have even suggested a specifically African information ethics incorporating 'African intellectual, cultural, and philosophical resources' (Frohmann, 2007: 2) and reflecting upon 'the information ethical problems facing Africa' (Britz, 2013: 4). Others question both the value thereof and its feasibility, considering Africa's diversity (Ocholla, 2011: 12).

Intercultural information ethics helps to assess the values inscribed in the exported ICTs. It is thus central to understanding and evaluating ethical challenges associated with the export of ICTs to Africa and other digitalisation initiatives. When assessing such efforts, the ethical focus on global justice must be supplemented with a closer analysis of the involved technologies themselves. Current international efforts to establish ICTs in Africa cannot, and should not, simply be seen as technology export or a technological structural transformation, but rather, ICTs' default settings and technical characteristics shape individual and societal patterns of behaviour as well as users' self–perceptions and capabilities. Actors exporting technologies thus indirectly implement certain rules, governing actions and values.

Therefore, it is important to regard how values are inscribed in ICTs and the related practices. In the following sections, we will show how values are likely to be influenced by the technical characteristics and default settings of the exported ICTs themselves: access to information and privacy. Access to information lies at the heart of justice-based arguments for bridging the digital divide. Information is widely regarded as essential for people to 'participate meaningfully in […] socioeconomic and political activities' (Britz, 2008: 1172) and is particularly important in the current 'information society' and 'knowledge economy', where it has become a critical factor of production and power and a 'source of inequality' (Van Dijk, 2006: 231; see also UNESCO, 2015: 29). As indicated in previous sections and described in greater detail further in this chapter, access to information is a crucial value for Mandela himself.

Besides access to information, this contribution will also regard privacy. Privacy is widely considered as subject to a trade-off in terms of global justice: while there is a great desire for cheap access to ICTs and thus information in Africa, strict privacy protection might limit technologies' functions and increase costs. At the same time, privacy is, in a liberal understanding, an enabler of freedom and democracy, a self-determined identity, and the shaping of social relationships (see e.g. UNESCO, 2015: 10). These are values Mandela also highlighted continually in his speeches and through his political actions (see e.g. Mandela 1990, 1995).

Both privacy and access to information are also heavily affected by (exported) ICT characteristics: ICTs' privacy protection measures may well be inadequate. Also, ICTs exported by actors from the Global North – who may (unintentionally or intentionally) promote a certain culture and way of life, or who might be acting solely in their own business interest – may restrict or preselect the information which users in the Global South can access (and contribute to).

ACCESS TO INFORMATION

When Mandela gave a speech to the Union of Radio and Television Networks in Africa in 1995, he emphasised the importance for people 'to obtain and utilise information relevant to their own lives, and to make them masters of their own destiny' (Mandela, 1995). He was aware that '[t]he spectre of

a privileged few setting the cultural agenda for the world's majority is very real' (ibid.). Even though he was talking about radio broadcasting in the 1990s, the situation today is very similar. In fact, the spread of the internet, dominated by information generated in the Global North and published in the respective languages, could even marginalise local culture, languages and indigenous knowledge in the Global South.

The information currently available on the internet is often neither published in local languages (Djité, 2008: 133; Omojola, 2011) nor embedded in 'contexts users can relate to, understand and benefit from' (Britz, 2008: 1172). People in the Global South may thus be unable to interpret and apply the information to their specific contexts, in other words, to generate knowledge out of it, since information is too abstract or does not match people's realities of life. Thus, unfettered access to existing information on the internet may not be sufficient. Developing a culturally sensitive concept of access to information is thus itself a question of justice. It is an important precondition to avoid a paternalistic or even neo-colonial definition of norms supposedly inherent to value-laden technologies (Ess, 2005: 6).

Besides, 'in most cases information alone does not relieve poverty – the actual resource, on which the information has a bearing, must also be available and accessible' (Britz, 2004: 195). For instance, access to information about the best treatment methods for certain diseases is of little help when these treatments are unavailable. In such cases, access to information may raise expectations that cannot be met. This can potentially have empowering consequences, for example, when information motivates political protest and action, but can also cause frustration and societal tension. Moreover, it is 'questionable' whether ensuring certain basic material needs (such as nutrition) is connected to access to the internet (Bohlken, 2004: 80) – and thus whether digitalisation initiatives are the right 'development priority'. Information also benefits different people to differing degrees. For example, it may be 'more useful to information workers than to manual workers, and more interesting to those who wish to capitalize on available information-based opportunities than to those who wish to live a simple life unencumbered by technology' (Van den Hoven and Rooksby, 2010: 390). Thus, one can nonetheless 'provide a similar level of access to technology without assuming or requiring that individuals make the same kinds of uses of those technologies' (Van den Hoven and Rooksby, 2010: 391).

Additionally, the current Covid-19 pandemic and the accompanying 'infodemic' has further fuelled the ongoing debate about the increasing spread of fake news and disinformation online. In the absence of traditional 'gatekeepers', the internet and in particular social media and messengers have enabled everyone with access to such services to become a publisher. This has 'democratised' the creation (and consumption) of content and goes well in line with Mandela's ideas to 'bring the benefits of science and technology to all [...] people' (Mandela, 1993) and to 'diversify [...] ownership and control of the media' (Mandela, 1995). This development may prove beneficial in Africa in the face of resource constraints and political repression in some countries.

However, it also raises new challenges concerning the truthfulness of political and other information online and the societal consequences of 'access to information' via ICTs. The Capitol attack in the United States of America on 6 January 2021 symbolised once more the potency of disinformation campaigns and their potentially disastrous societal consequences, including polarisation and radicalisation. Societies worldwide are grappling with this challenge, which may be further aggravated in Africa by low education and information literacy skills and existing societal tensions in many countries such as political polarisation and ethnic divisions. In the case of Covid-19, a recent report by the UN Economic Commission for Africa notes that 'social media has been used by some to jeopardise national, regional and international efforts' to fight the pandemic, and that this is one 'negative impact of social media on development and democracy in Africa' (UNECA, 2020).

PRIVACY

Privacy is very generally defined here as control of personal data by the owner him- or herself. However, due to the new technical possibilities, it is no longer sufficient to understand privacy as pertaining to a single individual and a respective private sphere. Rather, data protection and informational self-determination have become social phenomena and are related to questions of political freedom, personal identity and economic success. Notwithstanding, a certain amount of individual control or informational self-determination is an element of every concept of privacy. Consequently, privacy may limit free access to information. Thus, questions of privacy

always entail a trade-off between different claims depending on different contexts (Nissenbaum, 2004). This has led to much debate in the Global North, in particular in terms of privacy's relationship to security.

Privacy's importance has been recognised internationally, for example by the UN. Notwithstanding, the presented privacy definition to a certain extent reflects a high regard for individuality by Northern American and European societies (Ess, 2005: 1). In different cultural contexts, privacy may be defined and also valued differently. Many African and Asian societies regard privacy as related to community, oral information systems and a more collective notion of identity (see e.g. the African concept of 'Ubuntu' in Capurro, 2013: 168). For instance, Mandela did not place great emphasis on privacy issues. This might, on the one hand, be because in the 1990s they were potentially less prevalent than in the current age of information society. On the other hand, Mandela believed in the Ubuntu principle and was fostering it at the political level, where it was even the philosophical foundation for the Truth and Reconciliation Commission's work. Therefore, as a South African and an adherent to Ubuntu principles, Mandela probably had a different understanding and more collective notion of privacy than the one prevalent in countries of the Global North.

Digitalisation initiatives, including initiatives in Africa, must therefore consider local definitions of privacy and how they relate to and conflict with privacy concepts from the Global North and China inherent to respective digitalisation initiatives. An intercultural information ethics perspective is crucial here. Contextual factors are also essential for the valuation of privacy. Strict privacy protection, for example, is often costly and may impede technologies' functionality. In addition, certain IT corporations' business models rely on mass data collection and its exploitation to offer their services free of charge or at a low cost. There is thus also a trade-off between privacy and low costs or functionality. This is clearly demonstrated by 'big tech's' business model worldwide. It may be particularly important in Africa, where there is arguably a great desire for cheap ICTs and access to information.

Ethicists warn of data protection issues in the context of Africa's digitalisation process. This is a sensitive topic since it correlates with human rights violations. Projects like the Usahidi online platform documenting human rights violations in Kenya are at stake if computer scientists' or journalists' data and privacy are endangered. This may in particular be

the case where authoritarian governments from Africa and abroad work hand in hand. This has consequences for justice and democracy, openness and moral courage (Schopp et al., 2019: 15). On a broader level, big tech companies are interested in tapping into new markets in Africa. Their business model is often based on collecting large amounts of user data and subsequent personalised advertising. Respective digitalisation initiatives that lead to an increased use of their services (such as social media platforms, messengers or e-commerce platforms) may thus endanger users' privacy. This holds true for users around the globe. However, many Africans may be particularly vulnerable to such practices due to resource constraints (i.e. they may be more willing to accept privacy breaches in return for cheap or free services) and a lack of digital education and literacy, including 'knowledge on how to protect one's data from unwanted privacy intrusions' (Schopp et al., 2019: 15). Additionally, lack of local regulation puts many African users at particular risk of privacy breaches compared to users in the EU, for example: in 2020, only 24 African states had adopted personal data protection laws, and only nine countries had institutions to monitor compliance with these regulations. There is also no commonly ratified African general data protection regulation (Privacy International, 2020). Additionally, some authoritarian African regimes are using privacy arguments to allow personal data to only be stored nationally, for example, facilitating surveillance and repression (Pelz, 2019).

Considering this, it is important to work on a culturally and context-sensitive privacy concept. Such a concept may highlight the potential exploitation of personal data by corporations from the Global North or from China, for example, without adequate benefits for the individual user or national economies in Africa. It may also highlight dangers to privacy emanating from authoritarian African regimes.

POWER INEQUALITIES AFFECT THE CONDITIONS OF DIGITAL TRANSFORMATION

Besides ICT export by foreign actors, there are also key national actors fostering digitalisation in Africa. However, even though African governments have succeeded in increasingly providing digital services and creating growth in the sector, most of their digitalisation agendas do not include any digitalisation milestones or respective steps to be taken. As shown previously

in this chapter, many governments also exploit their position of power, for example, by controlling social media or using internet shutdowns.

This exploitation of power by national governments may also intersect with the impact of foreign digitalisation initiatives. For example, privately financed (and developed) ICT infrastructure can bring internet access even to remote and huge, yet sparsely populated, regions with difficult terrain. Besides terrestrial approaches, more innovative technologies include unmanned aerial vehicles (UAVs), communication satellites and white spaces technology. For example, Google's parent company Alphabet started rolling out 'Project Taara' in Kenya in November 2020. The project will use invisible light beams transmitted at high altitudes. Alphabet hopes Project Taara will provide fast and cheap internet access to underserved populations in remote regions, in particular in Africa (Akinyemi, 2020). SpaceX is another American tech company working on innovative ways to spread internet access. Its Starlink project is a '10-year $10-billion broadband space programme' based on a projected 12 000 low-orbit satellites (Akinyemi, 2020). Privately financed ICT infrastructure projects like Taara and Starlink may prove crucial to connecting underserved populations. However, they are prone to 'multiple use' options like surveillance and governmental control. Concerning Starlink, an observer notes 'while Starlink will be able to broadcast to every nook and cranny of the world once in orbit, there is a likelihood that it will meet stiff resistance from censor focused nations which will have to host the ground stations for Starlink […] governments may decide to co-opt the ground stations, but control them as they please, or refuse them altogether' (ibid.). Also, there are dangers of security breaches, amongst others. Other observers, however, note that a diversification of infrastructure ownership limits states' opportunities for control and repression (Freyburg and Garbe, 2018).

In the following section, we will shed more light on the role of power and the danger of power inequalities in digitalisation processes, both at the international level and the national or societal level.

NEW DEPENDENCIES AND DIGITAL COLONIALISM

Global digitalisation processes are characterised by American and Chinese domination (Ess, 2018), often through large tech companies

from these countries such as Alibaba or Microsoft. Power relations within the process of digitalisation are thus asymmetric. There are often also unequal opportunities for participation in their digitalisation efforts. The role of external actors (states, international organisations, NGOs and tech companies) in shaping Africa's digitalisation process is ambivalent. In the case of the above-mentioned global tech giants, on the one hand, they provide local ICT-based jobs which helps to avoid brain-drain from these countries and offers much-needed employment opportunities. Additionally, their initiatives create opportunities for empowerment and education. On the other hand, jobs created are often precarious, and humans and nature are exploited, for example by low wages, long working hours and the dumping of foreign e-waste in African countries (Kelbessa, 2018). Moreover, whole societies depend on new technologies and digital applications, but key actors do not automatically have the knowledge to repair or construct technical devices which have been introduced by actors from the United States (US), Europe or China (Wade, 2002). There are additionally bilateral financial dependencies due to infrastructure and other so-called development projects. All this creates new economic dependencies. Besides, due to their high indebtedness and the organisational structure of global actors like the World Bank or the World Trade Organization (WTO), African governments are in a weak position to negotiate such dependencies (Schopp et al., 2019: 13).

Many digitalisation efforts by international organisations, the US and European countries, and many respective private and civil society actors arguably reflect an ideological 'mission' (Heesen, 2004). In this thinking, the global information society serves as a guiding normative concept with universalist pretensions and as a 'social utopia' disguised as technical innovation. Efforts to close the digital divide are in line with particular notions of a good society; the creation of the global information society simultaneously demands the creation of an 'enabling environment', including good governance, liberalised markets, standardisation and intellectual property rights (Heesen, 2004: 213, 222). Similarly, Kunst (2014: 7–8) has traced largely unsuccessful efforts by 'western agencies, such as the UN, World Bank or the ITU' to liberalise target countries' telecommunication markets (partially enforced by aid conditionalities) back to an overly techno-optimistic mindset influenced by modernisation theory. Neo-Marxists have even criticised international digitalisation

programmes for being neo–liberal and imperialistic, including unacceptable conditionalities, creating new economic and political dependencies and transferring the Western modernist and capitalist ideology (see e.g. Alden, 2003; Leye, 2009). Some regard bridging the digital divide as a 'consumerist project' (Canellopoulou-Bottis and Himma, 2008). Pantserev (2015: 21–22) has also criticised the pressure on African countries by international financial institutions to privatise and liberalise and to create favourable conditions for foreign direct investments in their ICT sectors. In this understanding good governance is also often linked to e-governance. The necessary soft- and hardware creates more dependencies. Therefore, such efforts are often regarded as neo-liberal and neo-imperialistic and many observers believe they create new economic and political dependencies for countries in the Global South.

Thus, the US and European efforts in Africa's digitalisation process often also follow geopolitical goals. Similarly, China's heavy financial investments in the digitalisation process of the African continent are coined by a strategic geopolitical mission and raise concerns regarding autonomy and freedom of expression. Unlike the 'top-down aid-based approach of Western powers, China is said to exert a soft power approach' in Africa through peer-to-peer relations (Calzati, 2020: 4954). However, the authoritarian regime aligns with authoritarian African governments and provides them with technologies that can be used for repressive practices (Majama, 2018; Wakunuma, 2018). The values of these political regimes can thus be embedded in technology exported to the Global South. This adds another important layer to recent debates over the relation between technology, technology assessment and democracy (Grunwald, 2018). It is also cause for great concern regarding democracy, autonomy and freedom of expression. Besides this alignment of authoritarian states, huge infrastructure projects as well as technological imports from China raise fears of a 'new dependency' of numerous African countries on China, in particular those with strong economic and political ties such as South Africa (Carmody et al., 2020: 69–70).

Both 'missions' – the 'ideological' and the geostrategic mission – do not end in the political or economic sphere but touch upon societal norms and values as well. International actors (including big tech companies) are imposing their values (embedded in the design of their technologies) on African people through the export of their products. Several challenges

for African ICT users thus result from exported technology. These include value impositions, surveillance and the potential abuse of private data. Therefore, Birhane (2020) warns of 'algorithmic colonization' by 'Western' tech companies and Taylor (2013) of a new 'scramble of Africa' and in particular for data gained from Africans' ICT use. Calzati (2020: 4953) notes a crucial lack of agency ascribed to 'Africa, African institutions, and African people'. He argues that there is 'colonially tainted asymmetry with the Global North, which relegates African countries and people to a subaltern role' (ibid.), which also holds true for many Chinese digitalisation initiatives. If the needs of African stakeholders are not considered, digitalisation processes may pave the way for new forms of 'digital colonialism' (Wakunuma, 2018) or 'computer-mediated cultural imperialism' (Ess, 2009: 116).

SOCIETAL INEQUALITY

As shown, digitalisation efforts in Africa are often characterised by diverse and asymmetric power relations between Africans and global actors. Power inequalities include domestic inequalities, such as those between national elites and marginalised populations, and between (repressive) governments and their constituencies. Such social structures of inequality are often replicated through digitalisation (Ess, 2018). Digitalisation may 'maintain, and even exacerbate, existing inequalities as they are grafted onto pre-existing socioeconomic structures', despite ICTs' 'much-discussed equalizing and empowering potential' (Van den Hoven and Rooksby, 2010: 377). Therefore, digitalisation processes can contribute to the preservation of societal differences such as rural–urban, rich–poor, elites–socially marginalised, and (digital) illiterates–(digital) literates.

Africa constitutes no exception here. Around the globe, young, urban, privileged digital literates benefit greatly from access to ICTs. However, the problem is exacerbated in the African context as international organisations fostering digitalisation must rely on existing structures and justify their programmes' cost and expenditures. Therefore, they usually reach privileged people first, who often work in public administration and have easier access to such programmes. These people are most likely male, well-educated city-dwellers. Socially marginalised groups, elderly people, women and girls often only have access to digitalisation programmes when

they are specifically targeted. Besides, the problem is exacerbated for people who are not able to read and write or to speak the lingua franca since they lack two levels of knowledge needed to use technical devices. These might be members of small ethnic groups or minorities who speak specific dialects. This includes, for example, the Yoruba people in the Central Republic of Benin where French is the official language, but most people only speak one of the country's forty dialects. Here, as in many cases, people who do not have the skills to use ICTs as intended become very creative. The Yoruba, for instance, use signs on their phones imbued with particular meanings for specific purposes, or they use images to save numbers (Sègla, 2019: 50–51).

Nevertheless, even research on access modalities is often only focused on privileged societal groups or chosen sub-groups. However, there are increasing efforts to include marginalised groups such as women or rural communities. For instance, Google Scholar presents almost 17 000 results published since 2017 for the keywords 'ICT access Africa women'. As researchers hold societal responsibility, it is crucial that they are aware of these groups and reveal their hopes, interests and problems related to ICTs.

Digitalisation may also reinforce power inequalities between (repressive) state actors and civil society organisations and activists: notwithstanding their democratising potential, ICTs can be used to suppress opposition voices, to intimidate, monitor and prosecute. This is exemplified by internet shutdowns and ICT-based surveillance of opposition actors (see e.g. Mathiesen, 2012: 18). Here, privately financed ICT infrastructure (as exemplified by Projects Taara and Starlink) may both serve and counteract state repression. Besides, exported technology may be based on algorithms which discriminate against certain (often marginalised) groups of society such as women or black people. The import of such technology may thus perpetuate gender biases, for example.

Digitalisation initiatives can reinforce existing social inequalities, hierarchies and injustices, and strengthen authoritarian regimes. Close attention thus needs to be paid to the local effects of digitalisation in different countries and regions in Africa.

WHERE DO WE GO FROM HERE?

Digitalisation programmes and initiatives to bridge the digital divide are a double-edged sword. While they offer great potential for people's

empowerment and improvement of their lives, they may also allow them to be exploited and repressed and can deepen existing inequalities. How can digitalisation initiatives' positive effects be fostered and broadened while avoiding or minimising threats and negative consequences? In the following section, we suggest several ways forward to foster a digitalisation enabling many more people to lead a good life.

HOW DIGITALISATION CAN CONTRIBUTE TO EQUALITY AND DEMOCRACY

Power relations and structures of inequality heavily influence the impact of digitalisation initiatives and are in turn influenced by them. Therefore, all actors involved in processes of digitalisation must critically scrutinise these power relations and act accordingly. This has many dimensions, including analysing values embedded in the exported technologies and reflecting upon them, overcoming barriers to access and supporting marginalised groups, and strengthening local civil societies.

Zheng and Stahl (2011: 75) emphasise that due to their potentially great impact, technologies' embedded 'ideological qualities and hegemonic functions' must not be ignored. Rather, embedded values should be identified and ethically assessed, and already taken into account during the design process (Brey, 2010: 42). This is especially important when it comes to technologies that could enable the suppression of (members of) the political opposition, digital exploitation (of users' data, for example) or digital colonialism. Such technologies threaten users' privacy and freedom. However, threats caused by embedded values and the characteristics of ICTs may also be less obvious. Negative implications of ICT access may include the spread of mis- and disinformation online, for example on political or health issues, with negative societal ramifications. Countering such threats posed by certain embedded values is a multi-dimensional challenge. It can include approaches to technology development such as 'values in design' or 'explainable artificial intelligence', as well as efforts to counteract negative implications once technology is implemented (such as in the case of mis- and disinformation, platform (self-)regulation and educational efforts). It also entails societal discussions and political decision-making on values embedded in (exported) ICTs and the desirability of certain digitalisation initiatives.

Besides, to bridge the digital divide, barriers to ICT access have to be scrutinised. Greater research efforts are needed, as are development initiatives to overcome them. Moss (2002: 165) even argues that 'not having access to forms of technology which are instrumentally vital for access to other goods (employment, knowledge about health outcomes or access to democratic institutions) is a larger threat to agents' well-being than at least some of the threats that accompany digital technology, severe though they are'. Therefore, barriers to access must be removed. At the same time, as shown above, digitalisation efforts can foster social inequalities. Thus, societal groups who have little or no access to ICTs and who, at the same time, may be further marginalised by increased digitalisation must be put at the heart of digitalisation efforts. This includes women and girls, the elderly, rural populations, the illiterate and members of marginalised ethnic and indigenous communities. Digitalisation projects aimed at bridging the gender digital divide, for example, may improve women's economic and societal standing and contribute substantially to alleviating poverty (Toffa, 2018). They can empower women and challenge traditional gender roles and power structures (Ramey and Brzezinski, 2018). At the same time, such projects must also be careful not to discriminate against gender non-conforming people and thus to further structural inequalities themselves (Martinez Demarco, 2019). Also, digitalisation is a two-way street. Girls and women are not mere objects of digitalisation, although they are frequently conceived as such in ICT policy documents (Andersson and Hatakka, 2017). Girls and women shape technological change by taking part in coding and ICT education, becoming social entrepreneurs or simply appropriating ICTs to their benefit (Nikulin, 2016). Actors involved in digitalisation should be aware that access to 'ICT is but one factor that must be addressed if we are to tackle the digital divide constructively' (Nyahodza and Higgs, 2017: 39). Numerous other factors contribute to a lack of ICT access and use. To really tackle the digital divide, international efforts must address underlying factors such as poverty, societal marginalisation and their causes.

Thereby, strengthening local civil society is important to counteract poverty and societal marginalisation. Civil society organisations are also crucial for the fight against disinformation and governmental repression and for free access to information. They are increasingly bringing shutdowns by the government to national courts, for example in Uganda (Dahir, 2018).

Even though this specific case has been dismissed, it illustrates that people are fighting for their right to access information. Thus, civil society actors are important stakeholders in the process of digitalisation who must be considered, as well as supported, by international actors in the field.

AFRICANISING ICT AND FOSTERING PARTICIPATION AND LOCAL TECHNOLOGY DEVELOPMENT

It is also crucially important to understand how people utilise ICTs, even when they do not understand the language of an app or are digital illiterates. Here, we want to emphasise the value of local appropriation of ICTs realised by the users themselves. At the local level, users are working around issues such as illiteracy or language barriers by appropriating ICTs to suit their needs and preferences, such as the Yoruba in Benin (see the earlier section on social inequality in this chapter). However, such local adaptation would be facilitated if more options suiting their realities of life were available to local people. At the same time, basic ICT skills are crucial to be able to benefit more profoundly from ICTs. Small steps matter here, whether it is learning to create a blog entry or exploring all functions of one's phone (Toffa, 2018). 'This is especially true for marginalised members of society' (Schopp et al., 2019: 14). International digitalisation efforts may support this through ICT skills trainings, in particular for marginalised groups.

Besides local appropriation, ICTs must also be adapted to local contexts: there is an 'urgent need to "Africanize technology"' (Mutsvairo and Ragnedda, 2019: 22). Exported ICTs must be flexible in use to meet the users' realities of life and let them benefit from ICT systems. Companies like Huawei and Tecno Mobile (both from China) or Infinix (from Hong Kong) have started to cater to the needs of African users by creating, for example, longer-life batteries that answer to the problem of scarce power supplies in many African regions (Majama, 2018). Developers may also develop mobile apps in local languages, or apps extensively using special audio signals or symbols (Sègla, 2019: 51).

However, this is only part of the game. For instance, Moss (2002: 164) worries that 'development agencies or […] private corporations will seek to "equalise" the digital divide without considering local understandings of what a country's digital needs might be', by offering 'software that does not

take into account culturally specific factors', for example. Also, if exported ICTs are adapted to local circumstances (such as infrastructure and skills), but do not take into account local needs and cultural specificities, they may still remain instruments of 'digital colonialism' and create dependencies. Thus, to truly 'Africanize technology', there is a need for the 'empower[ment of] African actors as well as African ICT users' (Calzati, 2020: 4953). Hereby, participation is key: the original techno-optimism associated with digitalisation initiatives has been somewhat muffled by concerns that the perspectives of end users (particularly the poor) are not taken into account in the development of devices, apps and ICT literacy programmes (Heeks, 2008). Also, social and political participation through ICTs may be limited to participation within existing structures, and questioning hierarchies in the 'socio-technical order' is not possible (Hoyng, 2016). In response, participative methods for the research and development of ICTs have been developed (Baelden and Van Audenhove, 2015). Specific initiatives encouraging local participation in (international) digitalisation programmes may help enhance ICTs' potential to be a democratising and equalising force. In this vein, Kelbessa (2018) has highlighted the importance of participation and self-determination (besides sustainable development) as part of desirable codes of ethics and responsibilities accompanying the creation and introduction of new technologies. Participative digitalisation programmes should, however, consider African philosophical concepts of participation (including Ubuntu, see Eze, 2010) which have often been neglected in the European and North American body of literature on participation. They should also allow Africans to participate on their own terms and as equals.

Local digital content creation should be fostered (Alzouma, 2005: 344). This includes preserving and digitalising the heritage of diverse African cultures. It also encompasses a greater participation of Africans and inclusion of their perspectives in internet content creation. There are examples of digitalisation initiatives encouraging just that, such as the 'Wiki Loves Africa' initiative. It is run across the African continent as an annual contest to which everyone can contribute and share media content (photographs, video and audio) mirroring his/her own reality of life. Additionally, there are specific trainings held with national organisers. The initiative is funded by the Wikimedia Foundation and organised by the non-profit organisation Wiki in Africa. Part of Wiki in Africa's aim

is 'to empower and engage citizens of Africa and its diaspora to collect, develop and contribute educational and relevant content that relates to the theme of Africa under a free license; and to engage in global knowledge systems' (Wiki in Africa, 2021). The Wiki Loves Africa initiative is a positive example of proactive efforts to increase African content in the world's largest online encyclopaedia. At the same time, Wikipedia itself is grappling with structural inequalities. Many people are excluded from participation: the discourse and male dominance on the platform inhibit women, in particular, from contributing. This has been shown by Gredel (forthcoming) in the German context.

Besides local content creation, genuine African ICT development must also be fostered. African digital entrepreneurs are already developing ICT solutions for pressing needs both in Africa and globally. Hereby, African values and narratives are sources of success, fostering digitalisation 'out of Africa' (Rademacher and Grant, 2019). As Birhane (2020: 403) puts it, 'what is considered ethical and responsible needs to be seen as inherently tied to local contexts and experts'. Greater (international) support for local ICT start-ups and services may support such efforts, for example, through financial investments and cooperation projects. By way of example, the Hackaton 'SmartDevelopmentHack' 2020 supported by the EU and Germany encouraged innovative digital approaches to solving problems caused by Covid-19. Many African start-ups were amongst the winning teams (Udoh, 2020). Broader investments and cooperation with African start-ups outside the 'development community' is also needed.

GLOBAL COOPERATION ON JOINT CHALLENGES

Lastly, Africa should no longer be seen merely as a recipient of (even participative) digitalisation initiatives and exported technologies. Instead, as mentioned, innovative ICT solutions are increasingly being developed on the continent and applied and marketed abroad. Besides, the challenges African stakeholders, including governments, platforms and users, face are the same challenges actors in other parts of the world face. By way of example, US and Chinese tech giants not only dominate African digitalisation processes but have exported their products and services globally – with all the accompanying benefits and fears. The latter include mounting concerns about these companies' business models based on

the massive collection of personal data, concerns about privacy breaches, personalised advertising, the spread of fake news and disinformation and a distortion of public debate and the global information ecosystem. Also, new technologies such as artificial intelligence pose new uncertainties, opportunities and challenges for societies around the globe, and warrant political and societal responses.

The EU is reacting to these dangers and challenges with concepts for 'digital sovereignty' (EU, 2020). This includes an independent digital infrastructure, the development of own platform services, a strong privacy regulation and new strategies for data sharing within the EU. From an ethical perspective, 'digital sovereignty' can be welcomed as a way to increase plurality in the tech industry but should not lead to renationalisation. Instead of less cooperation in technology design and regulation, the concept of 'sovereignty' should be made fruitful for all countries to have a wide range of context-aware, independent and secure applications.

Rather than viewing concerns as challenges which Africans must face alone in the context of digitalisation programmes, like-minded actors should work together on global solutions. This may include greater cooperation and the exchange of ideas and best practices between academics, civil society organisations or national and supra-/international regulators and policymakers, amongst others. This may lead to strong and effective privacy protection, a regulation of artificial intelligence innovations, content moderation on online platforms that respects freedom of speech, the need for access to information and platforms' business interests while effectively combating hate speech and disinformation, and responsible and effective answers to 'infodemics' such as the one surrounding Covid-19, for example.

Here, the above-mentioned AU-EU Digital4Development Hub may prove a promising initiative. It was established within a broader effort by the European Commission to bundle European digitalisation efforts and form regional branches all over the world, for example, in Africa and Latin America, including key stakeholders from these regions. It is the Hub's declared goal to offer added value for both sides, to base its activities on local demand, promote a sustainable digital transformation, take into account society as a whole, and foster data protection and privacy (Christ, 2020). Since the Hub only took up activities in January 2021, it is too early to judge its impact this year. However, its declared approach and goals align with many of our ideas and suggestions mentioned in this chapter to promote

a more ethically desirable digital transformation in and with Africa. The Hub is also part of a broader set of plans initiated by the German EU Council Presidency 2020 that counter some of the challenges raised in this contribution: the 'AU–EU Data Flagship' shall ensure that data collected by European companies in Africa also benefits African people, companies and public sectors (Christ, 2020), countering fears of a colonial exploitation of Africans' data. The 'African–European Digital Innovation Bridge' shall build a pan-African network of digital innovation hubs that allows joint ventures and expertise transfer between European and African companies, and skills trainings in particular for youth and women (Christ, 2020). These initiatives need to be scrutinised critically as they unfold, considering the concerns raised in this chapter. However, they at least appear to be based on the idea of a cooperation of equals at eye level – a much-needed approach to African digitalisation that can benefit all stakeholders involved.

FINAL NOTE

'As information technology becomes ever more sophisticated, Africa cannot afford to hesitate. We owe it at least to the continent's children to make ourselves heard,' said Mandela in one of his speeches in 1995 (Mandela, 1995). Indeed, information technology has become more sophisticated and the children of the past now see their own children growing up in an increasingly digital society. What are their desires and requirements? This new generation has the right to figure it out for itself, but its goals for a good life must not be limited by technological constraints or power inequalities.

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Mandela and critical information literacy

Prof. Marco Schneider and Pablo Nabarrete Bastos

INTRODUCTION

This chapter explores the proposition of Rafael Capurro (2020) to think about Nelson Mandela as an information ethicist. We do so mainly based on Mandela's autobiography *Long Walk to Freedom*, considering its content along with the context of its writing and circulation, a life imprisonment sentence in Robben Island Prison during South African apartheid. The theoretical ground of our study articulates information ethics with critical information literacy; the critical pedagogy of Paulo Freire; the concept of anthropophagy developed by Oswald de Andrade; and Bertold Brecht's reflections about the difficulties in writing the truth.

On the International Center for Information Ethics (ICIE) website, page The Field, we can read: 'The Western tradition of information ethics […] is characterized by two ideas: freedom of speech, freedom of printed works and particularly freedom of the press.' The ICIE also teaches us that intercultural information ethics deals with the 'historical aspects of the study of information ethics within different cultural traditions'.[1]

To this perspective, we add another tradition to the field, from the Middle East, although very influential in Western tradition, namely the third and the ninth of the Ten Commandments: 'Thou shalt not take the name of the Lord thy God in vain' and 'Thou shalt not bear false witness

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1   See https://www.i-c-i-e.org/copy-of-information-ethics.

against thy neighbour'. The first forbids blasphemy, or using the name of God to commit evil, and the latter condemns perjury, or false witness.

Nelson Mandela fought for the first two principles quoted above and was a victim of South Africa's state apparatus transgressions of the latter pair:

> The Reunited National Party, the main political party of Afrikaner nationalism, won the 1948 general elections under the leadership of Daniel François Malan, clergyman of the Dutch Reformed Church. One of Malan's main campaign promises was to deepen racial segregation legislation. The Reunited National Party narrowly defeated Jan Smuts' United Party – which had supported the vague notion of slow racial integration – and formed a coalition government with another party that defended Afrikaner nationalism, the Afrikaner Party. Malan instituted the apartheid regime, and both parties would soon merge to integrate the National Party.
>
> Racial discrimination, long a reality in South African society, had been elevated to the status of philosophy. A society known as Broederbond ('Brotherhood') brought 'problem addressers' together who worked out the apartheid doctrine. This doctrine was defined in the electoral manifesto of the National Party as follows: 'The policy of racial segregation is based on Christian principles of what is fair and reasonable. Its objective is the maintenance and protection of the European population of the country as a pure white race and the maintenance and protection of indigenous racial groups as separate communities in their own areas (…) Or we follow the course of equality, which in the end will mean white suicide, or we take the course of segregation.[2]

The social and universal classification of the population based on the race concept is a core element of global capitalist power coloniality and operates in the objective and subjective, material and symbolic dimensions of reality (Quijano, 2009).

In his pamphlet *Writing the Truth – Five Difficulties*, published in Paris and put into circulation in 1934 in Germany ruled by the Nazi Party, Bertold Brecht reminds us in a Hegelian sense that when truth is defeated by lie, it is not due to its truthiness, but because it was weak, so not enough true, actual, real.

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2   See https://pt.wikipedia.org/wiki/Apartheid#cite_ref-Hos_25-0.

Brecht also said:

> We must tell the truth about evil conditions to those for whom the conditions are worst, and we must also learn the truth from them. We must address not only people who hold certain views, but people who, because of their situation, should hold these views. And the audience is continually changing. Even the hangmen can be addressed when the payment for hanging stops, or when the work becomes too dangerous.[3]

Mandela learnt these lessons quite well from his particular experience of fighting against the fascist apartheid regime for decades. He also developed to a high level the five skills advocated by Brecht on the same pamphlet (having or not read it, we do not know): personal courage, interpretative accuracy of the general concrete situation, rhetoric ability, strategy, information techniques.

We believe that Mandela's fight and victory against the apartheid regime was due at least in part to these skills and strategies, dealing with very adverse concrete situations. As per Capurro, we understand this fight also as an information ethical one that involves information literacy, particularly critical information literacy:

> [...] Mandela addresses key issues of information ethics and particularly of IFAP [Information for All Program] topics, namely: information for development, information literacy, information preservation, information accessibility, and multilingualism. Mandela's experience of writing and smuggling his text, chapter 78 of the autobiography, is an example on how freedom of speech can be defended in 'heterotopian spaces' (M. Foucault) such as jail.[4]

We also pay special attention to the contribution of Paulo Freire's critical pedagogy for our understanding of critical engagement as a level of critical information literacy, together with some similarities of his life and thoughts with Mandela's.

Finally, we explore the hypothesis that Mandela somehow deployed the intercultural strategy developed by Oswald de Andrade in his *Manifesto*

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3   See   https://fermatstheater.org/2018/05/31/writing-the-truth-five-difficulties-bertolt-brecht-1935/.

4   Capurro, Rafael. Homage to Nelson Mandela, http://www.capurro.de/Mandela.html.

Antropófago (without de Andrade's sarcastic and provocative style), which we call dialectical anthropophagy, absorbing from white colonialists science, technology, literature, boxing and socialism, rejecting racism and capitalism.

Before articulating this rationale, we will expose each idea separately, beginning with our own contribution to the theoretical development of the studies on critical information literacy.

CRITICAL INFORMATION LITERACY IN 8 LEVELS – CIL / 8

Information literacy is a field of study and a pedagogical practice in both library and information sciences. It aims to develop individual skills to identify their information needs and how to fulfill them, through search, retrieval and ethical use of information, to solve efficiently given tasks. It concerns the ability to find and make good use of adequate information, in order to satisfy a specific need that can be directly informational or non-informational. It is understood that this skill can be developed through learning. This is true for both information mediators and users.

The notion of critical information literacy showed up about fifteen years ago. Its general objective is a criticism of the more instrumental aspect of traditional information literacy, promoting studies and practices of an emancipatory character, focusing on information literacy combined with combating all types of oppression and social alienation, of class, gender, and race.

We developed a particular notion of critical information literacy (CIL). For didactic purposes, we have structured this notion into eight articulated levels (CIL / 8). In synthetic terms, the CIL / 8 levels are: 1) concentration; 2) instrumental; 3) taste; 4) relevance; 5) credibility; 6) ethics; 7) criticism; and 8) critical engagement.

The theoretical ground of the first level is Agnes Heller's (2004) notion of the suspension of everyday life, because the transition from common sense to critical thinking means the suspension of everyday life, whose first movement is concentration.

CIL begins with this socio-cognitive faculty that guides our informational attention and selection, based on accurate and self-

reflective knowledge of our own demands, amid the infinite unmanageable information that confronts us.

The first step in the formation of the CIL / 8 is concentration, because it consists in deliberately ignoring, at each moment, most of the potentially informational totality that surrounds and intersects ourselves, and considering just what seems to be, at that moment, relevant information.

Heller, a colleague of Georg Lukács, provides us with a detailed description of the characteristics of everyday thinking and the openings present in that same daily life to the suspension of everyday life, whose exemplary expressions are scientific and philosophical knowledge, aesthetics and emancipatory political praxis.

For Heller, the main characteristics of daily life are ultra–generalisation, provisional judgements, superficial ways of comparing things, driven by habit and appearances, repetition, imitation (mimesis) and 'intonation', that is, a fixed, artificial but naturalised way of positioning yourself in relation to things and people.

Daily life is also characterised by spontaneity and the habit formed by the accumulation of functional daily experiences; and by the almost immediate unity of thought and action, unlike moments of suspension, whose praxis constitutes a conscious, distant, much more mediated activity.

Another trait highlighted by Heller in daily life is pragmatism (in the broadest sense of the term), that is, the confusion of the correct (useful, that works) and the true.

The set of these elements crystallized in absolutes forms what Heller defines as alienation, which '[...] is always alienation in the face of something and, more precisely, in the face of the concrete possibilities of generic development of humanity' (2004: 38).

Heller reports the risk of the penetration of alienated daily life into spheres where it is 'not expected': science, philosophy, arts, politics. But this also means that there are spheres where the structure of daily life is not only necessary but inevitable, in any existing or conceivable social context: pragmatism, provisional judgements, etc., inevitably and functionally compose life, not by themselves constituting the core of the alienation feature of everyday life's sphere. In order to ride a bicycle or eat bread, sophisticated scientific or aesthetic procedures are not necessary, quite the opposite: life would not be possible if they did so. The problem is when daily life structure of thinking, feeling and acting impregnates science,

aesthetics, ethics and other spheres that need the suspension of daily life. A consequence of this impregnation is prejudice – an obvious central theme for Mandela.

For Heller, prejudice can only be understood starting from everyday life, from the traits of it: momentary aspect of effects, ephemeral nature of motivations, rigidity of way of life, experience-fixed thought, empirical, ultra-generalizing stereotypes.

Another source of prejudice is conformism, which Heller distinguishes from conformity to rules, necessary for functional success in everyday life: 'Every man needs […] a certain amount of conformity. But this conformity becomes conformism when […] the motivations for conformity of everyday life penetrate the non-everyday spheres of activity, especially in moral and political decisions [...]' (2004: 46).

The second level of CIL concerns the instrumental need for information literacy, in a critical approach.

The most instrumental conception of information literacy is, in several formulations, that the user has knowledge of how to proceed in instrumental terms to fulfill their informational needs. It is certain that some instrumental domain of informational devices necessarily compose any information literacy, being those critical or not. In fact, in order to have some information literacy, one cannot do without the literacy or the mastery of some code, the knowledge of sources of information, the systematics of its use, the ability to handle certain equipment or search systems, etc. But this set of knowledge and skills is not enough to have CIL. In the particular case of CIL / 8 it requires, as we saw, even before the instrumental domain, the suspension of everyday life, whose initial movement is concentration, along with the abstraction of spontaneity, immediacy, provisional judgments, generalizations, mimesis, prejudices. Third, CIL / 8 requires questioning, by the information user and mediators, about each one's information needs, a reflection on how effectively these 'needs' would be met, followed by an examination of their hierarchy and its concrete conditions of fulfillment. In other words, CIL / 8 requires a conceptual, psychological and pragmatic problematization of informational needs: third level – the need for questioning the very notion of informational need, by mediators and users of information.

We aim to contribute to this point by presenting the notion of informational taste, which dialectically articulates the most universal

notion of necessity with those related to particular cultures and singular experiences, by a historical perspective.

We coined the term *informational taste* as an alternative to the more essentialist notion of information need, since taste results from the mediation between need and culture. In other words, the taste we have for something, which leads us towards something, is the result of a formation process. This process articulates needs and experiences in a given social-historical context that is conditioning the particular way in which our needs are differentiated, beyond those strictly physiological ones.

As a metaphor, the expression *informational taste* also allows us to think that, just as the health of the organism requires nutritious food, the health of thought requires qualified information. However, the nutritious is not always tasty and the tasty is not always nutritious. But it could be. And, making them so contributes to both good nutrition and gastronomic pleasure, stimulating each other. Likewise, qualified information is not always perceived as such, just as unqualified information can seem to be tasty. How may we identify and seek qualified information? How to make qualified information attractive? Just like everyone's tastes for food, music and other socially mediated processes, the same goes for informational taste.

Systematic doubt and critical thinking, turned into a taste for stimulating search, tasting and good digestion or good use of qualified information, enrich the information literacy with the critical, self-critical and volitional elements that allow us to think beyond its instrumental aspect, limited to technique and based on an uncritical and abstract notion of necessity.

The notion of taste, both in its etymology and in the ordinary use of the term, carries a revealing and problematic approximation between the notions of flavour and knowledge, that is, between the sensitive and intellectual valuation of anything, from food to music, from choosing furniture to voting, including friendship and love relationships. Searching, choosing, assessing and using information also involve sensitivity and reason, desire and knowledge. Therefore, they involve taste. But we can only like or dislike what we know, just as we only really know when information is incorporated into our thinking, so as to affect it. Taste is the socially mediated need and desire. Each mediation updates the universality of the process, in the particularity and uniqueness of the socio-historical context in which it occurs.

Fourth, we need to question the relevance of statements, as well as the socio-technical mechanisms and criteria for assigning relevance to statements, data and metadata. A fundamental methodological attitude is recommended, that is, the constant practice of systematic Cartesian doubt, a crucial methodological requirement in the very foundation and development of modern science, which basically means the rejection of any postulate based only on the supposed authority of the speaker, before a careful and judicious reflective examination. In short, for a saying to be taken for granted, it is not enough to have been enunciated by some authority. In other words, already anticipating the fifth level, referring to the sources of information, already in the fourth we must remember to keep in mind that the credibility of the speaker is not enough to ensure the correctness of the statement. Therefore, it is necessary to know in the best possible way a given subject in order to make correct judgements about reports or interpretations related to it, as well as to avoid the serious error of spreading false reports or misinterpretations. Fifth, as no one is (and cannot be) profoundly knowledgeable about everything, we must trust this or that source. But based on what criteria? What makes one or another source more authoritative, more credible? What should be highlighted is the need to question the credibility of the information source as well as the socio-technical mechanisms and criteria for assigning credibility to this source.

Sixth, CIL / 8 also involves the ethical use of information. Information must always be discarded or preserved, represented and classified in one way or another, kept secret or replicated, more or less selectively, by this or that means, without losing sight of the possible consequences of this or that set of options among the preceding ones, as well as the ethical principles and practical intentions of the adopted ones.

When we talk about using ethical principles, we must take the term ethics seriously, not as a simple etiquette, in the double sense of the term: standard of conduct according to more or less formal conventions, or label, adjective, which characterises a certain action as morally adequate according to tacit criteria. Because ethics is a vital field of reflection, which has interconnected epistemological, political and aesthetic or existential dimensions. The ethical-epistemological dimension of use concerns the problem of distinguishing between rational, coherent, realistic, objective, precise information, and vague, incoherent, prejudiced information.

Ultimately, it concerns truth and lie in their complex dialectics. The ethical-political dimension of use refers to power disputes, from everyday micro-disputes to disputes between political parties, social class, nation-states, in their numerous modulations: argument, law, espionage, archive, propaganda, etc. Finally, it refers to freedom and oppression. The ethical-aesthetic or ethical-existential dimension of use refers to the ways in which the use of information directly or indirectly affects the experiences of gratification or frustration, charm or disgust, intensity or indifference in the subjects lives effectively or potentially involved in a particular informational practice. Remembering that the ideal of a fulfilling life is one of the most persistent and powerful moral principles throughout history. So, it refers to happiness and unhappiness.

Intercultural Information Ethics (Capurro, 2001; 2009) adds to the preceding reflection the certainty that one should not ignore that different cultures have different regimes of truth, freedom and happiness. At the same time, the fact that we live in the same world, whose asymmetrical economic, political and cultural interconnection prevents us from isolating ourselves from each other, as well as the fact that these different regimes are not necessarily antagonistic or incompatible, both facts bring with it the ethical, political and epistemological requirement to promote intercultural dialogue.

In short, 'ethics' is a notion that must be thought of in serious and substantive terms. It is not a sympathetic adjective, which everyone likes and uses at they please, employing in most cases platitudes of common sense, nor a theme disconnected from practice. On the contrary, since Aristotle,[5] this is to say, from its very beginning as serious and systematic theorization, ethics concerns the legitimacy and effectiveness of the practice itself, whatever it may be.

Seventh, the CIL / 8 requires accurate knowledge of critical social theories and critical theories of information. In short, this knowledge, based on the suspension of daily life, should favour a systematic and questioning understanding of instrumental skills, needs and tastes, the relevance of information and the credibility of sources, in view of the ethical use of information in each context.

Eighth, critical engagement means that an effective fair use of

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5   See   https://www.stmarys-ca.edu/sites/default/files/attachments/files/Nicomachean_ Ethics_0.pdf.

information requires commitment to social justice, involving attachment of the subject with emancipatory praxis.

One of the authors that inspired our concept of critical engagement is Paulo Freire. He also inspired the general studies of critical information literacy.

There is no record that there was an encounter between Paulo Freire and Nelson Mandela, which would have been historic. In the period of Paulo Freire's exile, between 1964 and 1978, after being persecuted by the civil-military dictatorship in Brazil established in 1964, when he went to Africa several times, Nelson Mandela was in prison. Certainly, the dialogue between the two historical figures would have been quite fruitful to shed a light on several topics in the areas of education, economics, culture, information, communication and society, always with a view to human, social and political liberation, an obsession for both, driven by unshakable faith that women and men can change the world. In some way, we will contribute here by articulating the approximation between the Brazilian educator and the South African leader, especially around what we call engagement with the common, the eighth level of the CIL / 8.

Etymologically, engagement comes from the medieval French *engager*, from *en gage*, 'under commitment, under promise', from *en*, 'doing', plus *gager*, 'commitment, guarantee'.[6] Thus, engagement indicates commitment to something. In Human Sciences, one of the first authors to formulate a notion about the concept and put it in evidence was Jean-Paul Sartre (2004 [1948]), in the middle of the last century, to defend an engaged perspective of literature. For the author, prose is 'utilitarian in essence' and the writer chooses actions that provoke 'unveiling'. 'The 'engaged' writer knows that the word is action: he knows that to unveil is to change and that you cannot unveil it unless you intend to change' (2004: 20). In the communication field, the concept of engagement involves different perspectives and theoretical-epistemological tensions. Although it may seem a new concept in the area, due to the way it started to circulate daily with the advancement of communication and digital platforms, there are researches that work with engagement in audience studies, aiming to understand the relationships between media and everyday life in people's lives, their bonds and social contexts, since the 1990s (Livingstone, 1994; 1998). And this remains one of the theoretical matrices used in the area.

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6   See https://origemdapalavra.com.br/?s=engajar.

Karel Kosik (1976) developed his understanding of engagement as a state of concern for the subject, of their insertion in the daily utilitarian praxis, in their social relations, in the determined praxis. The Czech philosopher calls utilitarian praxis and fetishized praxis the fragmentary way in which men are inserted in the division of labor, how they conceive their representations of the world from the phenomenal forms of reality, however, without entering into the essence of the phenomena. From this perspective of engagement that includes the subject's insertion into the phenomenal reality, which appears from the material totality and whose appearance is impregnated with ideology, according to the original Marxian meaning, we propose the critical and reflexive construction of engagement as a dialectical overcoming. In this point of view, engagement is built on the epistemological and political process of overcoming everyday life, pseudo-concreteness, through critical education and political praxis. For overcoming the subjects' everyday life and phenomenal relationship with each other and the world in a reified way, the development of the CIL / 8 can be an effective method for political education and the development of critical and reflective engagement. The concept of engagement proposed here acts retroactively and fluctuating in relation to the other seven levels, in a way that strengthens and is enhanced by the others.

In our proposal for critical and reflective understanding of the concept, we conceive engagement as the subject's social, affective and taste bond with a certain ideology, in the broad sense of worldview; therefore it is configured as a communicational and sensitive dimension active in the engendering of hegemony (Bastos, 2020a). The process of production and circulation of ideology in society has a material basis, it is organized in an apparatus according to the Gramscian meaning, so it is not possible to reduce the clashes due to hegemony over the dispute over narratives (Liguori, 2007). In this way, engagement is built through the interaction with hegemony apparatus embodied in the media, digital platforms, companies and also in social, popular and community movements, which we understand as popular hegemony apparatus, due to its potential to build popular power (Bastos, 2020a). The concepts of hegemony, counter-hegemony and popular hegemony (Bastos, 2020b) are inextricably related to the common, insofar as they are processes of construction of power or counterpower that need to continually bond the subjects, engage them in a certain notion of the common that supports, reflects and refracts ethical-

political projects. Sodré (2002: 223) understands the connection between subjects, in the struggle for political and economic hegemony or in the ethical commitment to rebalance community tensions, as the theoretical core of communication. Connection, to Sodré, is 'the radicalism of differentiation and approximation between human beings'. The author argues that communicating is 'establishing the common of the community' as a connection, not as an aggregate entity, but as a 'nothing constitutive'; after all the connection is without physical or institutional substance, it is pure openness in language (Sodré, 2014: 214).

Paulo Freire is another fundamental reference for the critical perspective on engagement with a focus on education. In the dialogue carried out with the American educator Ira Shor, Freire (1986) states that engaging in a permanent process of illuminating reality with students is a way of not falling into cynicism, a risk that educators take when they work strenuously and see no results. The author highlights the importance of educators being militants, in the political sense of the word, understanding the term as critical activism. Freire points out that it is necessary to recognise the limits of formal education, which made him re-route his work by dedicating himself to popular education projects. However, within these real limits, education can broaden curiosity and provide the engagement of some students with the 'trans-forming' process (Shor and Freire, 1986: 82). As Shor and Freire (1986) attests, we must be increasingly critical when we talk about liberating education, because there are several actions that need to be carried out simultaneously for the transformation of reality and that it is a mistake to condition education to transformation, that is, it is first necessary to educate and then transform. The Brazilian educator challenges this interpretation and affirms that these are actions that must occur together, so 'we must be engaged in political action against racism, against sexism, against capitalism, and against inhuman structures of production' (Shor and Freire, 1986: 102). In the same vein, Mandela's leitmotiv is his fight against all forms of segregation of information, especially those related to race, religion and social status matters (Capurro, 2020).

Two main aspects bring together the life and work of Paulo Freire and Nelson Mandela: the disposition for dialogue and praxis; the act in common to carry out the engagement and the struggle for freedom. Regarding the first aspect, according to Sodré (2014), the bond that establishes the common of the community is pure openness in language.

As for the second process, Dardot and Laval (2017) argue that the common action involves the engagement of men in the same task, which implies the construction of rules that regulate the action. The common term designates the political principle of 'co-obligation' for engaging in the same activity. The situation of co-marginality, co-exploitation and co-expropriation of the working class is real, concrete. Thus, the way to overcome this scenario is to act in common, in the co-activity that bases the common in praxis. By Freire's dialogical perspective, we are all cognisant subjects, mediated by the world, by structures, social relations, with the capacity to pronounce and transform the world. When recognising that the reading of the world precedes the reading of the word, we perceive the circularity between reality and thought-language, in a dialectical and dialogical movement that, in a continuous way, can transform the world. For the Brazilian educator, 'education is communication, it is dialogue, as far as it is not the transfer of knowledge, but a meeting of interlocutors who seek the meaning of meanings' (Freire, 1977: 69). Dialogue is that 'epistemological relationship' in which the object of knowledge links cognitive subjects, leading them to reflect together (Shor and Freire, 1986: 65).

Mandela, on the other hand, perceives, even in a heterotopic space, the cell in which he was imprisoned, that he could experience the sharing of a common world, which was made possible mainly by the presence of each visitor who brought a little of the world abroad (Capurro, 2020). As per Capurro (2020), knowing that he is a free man, despite being trapped in a cell, is Mandela's ethical work and life basis as a 'freedom fighter'. Freedom of information as the right to communicate through different means is the foundation of a free society and underpins Mandela's life and autobiography as a 'message addressed to the people of South Africa, particularly to those excluded from such freedom' (Capurro, 2020: 14). Still according to Capurro (2020), engagement in conversations is the basis of Mandela's hope. Their political engagement is based on ethics, on the conviction of parity in the speech act, on the possibility of recognition among people through the word. The conversation allows for reflection and struggle for freedom. Regarding this, there is total philosophical alignment with the Freire's perspective of words and dialogue. Paulo Freire (1979: 91–92) states that words are praxis, work, the right of all people and not privilege, hence the 'true word is to transform the world', while the inauthentic word, which does not transform reality, is verbalism, 'hollow word',

'alienated and alienating'. Passing through Mandela's autobiography, we claim an identical argument to that used by Freire in his best-known work, 'Pedagogia do oprimido'. Mandela (1994) reports: 'It was during those long and lonely years that my hunger for the freedom of my own people became a hunger for the freedom of all people, white and black. I knew as well as I knew anything that the oppressor must be liberated just as surely as the oppressed.' Freire (1979: 31) states that: 'therein lies the great humanist and historical task of the oppressed – freeing oneself and the oppressors'. The synchrony of both around the willingness to meet the other is striking, recognising the common as a philosophical and human foundation of the struggle for freedom.

With regard to praxis, to Freire and Mandela's interactions in the popular apparatus of hegemony, we highlight Freire's engagement in popular struggles, his experiences of struggle in Africa and Mandela's engagement in the African National Congress, which made it possible to discover that their struggle was part of something greater: the liberation of Africans. Freire graduated in law, as did Mandela, and became a Brazilian Portuguese language teacher in elementary schools. He conducted adult literacy experiments in the popular government in Brazil, prior to the military coup of 1964. In his period of exile, he lived in Bolivia, Chile and Switzerland, with stints in the United States and many trips in the service of African and Asian societies. Luiz Roberto Alves (2006: 124) argues that Freire's pedagogy is carried out as a cultural action in favour of social equanimity; therefore it is configured as a communicative action that enables social groups, institutions and societies to 'a growing dialogical action, which is of the nature of freedom and educational autonomy'. Freire's wish that everyone had the right to think dialogically and dialectically has made his thinking and work proposals spread globally in different experiences, mainly from his work as an advisor to the World Council of Churches, in Geneva, between 1970 and 1979 (Alves, 2006: 124). Zamalotshwa Sefatsa (2020), in a dossier he organised about Paulo Freire and the popular struggle in South Africa, states that the educator's dialogical engagement developed since the 1950s became a progressive and emancipatory alternative in contrast to the hegemonic school programs sponsored by institutions such as the United States Agency for International Development (USAID), which has become known for supporting coups d'État against elected governments in Latin America and elsewhere. The Brazilian educator had significant contacts

in several liberation struggles in Africa. In his stints in Zambia, Tanzania, Guinea-Bissau, São Tomé and Príncipe, Angola and Cabo Verde, Freire participated in meetings with the Popular Movement for the Liberation of Angola (MPLA), the Mozambique Liberation Front (Frelimo) and the Party Africa for the Independence of Guinea and Cabo Verde (PAIGC). In addition, he developed adult literacy programs in Guinea-Bissau, Tanzania and Angola. The apartheid state did not allow Freire to go to South Africa. However, this did not prevent organisations and movements engaged in the anti-apartheid struggle from using his thoughts and methods. On the contrary, just like Mandela, through dialogue and words, Freire and South African citizens were able to communicate and break free from the intellectual and symbolic prison of apartheid. The following testimony by Barney Pityana, lawyer, human rights theologian and intellectual of the Black Consciousness Movement in South Africa, exemplifies the reception of Freire's readings in the liberation struggles on the continent (Sefatsa, 2020):

> Paulo Freire was the key theorist. But we needed to bring it from Brazil to the South African context. Of course, we didn't know anything about Brazil, except what we were reading. I do not know of any similar text that we could have used in South Africa at that time as a way of understanding and engaging the South African context.

Mandela had in his engagement with the African National Congress (ANC) the opportunity to awaken to the political struggle for liberation, against racism and apartheid in South Africa. The ANC was founded on 8 January 1912 as a popular, democratic, social and political mass movement, gaining huge prominence in the class struggle across the African continent (Buzzeto, 2021). At its foundation it was called the South African Native National Congress. Their mobilisation was mainly for the defense of the native population against the racist laws of the colonizers. In 1923 it changed its name to ANC and incorporated several unions, also counting on the adhesion of the South African Communist Party (SACP), which had been created in 1921 (ibid.). Mandela was one of the founders of the youth branch of the ANC in 1944, along with Sisulu, Tambo and Anton Lembede. There is an excerpt in his autobiography that well expresses the role played by the ANC, as a popular device of hegemony, in the formation

of its political conscience.

> But then I slowly saw that not only was I not free, but my brothers
> and sisters were not free. I saw that it was not just my freedom that
> was curtailed, but the freedom of everyone who looked like I did. That
> is when I joined the African National Congress, and that is when the
> hunger for my own freedom became the greater hunger for the freedom
> of my people. (Mandela, 1994)

In the mid-1950s, the ANC produced a historical document, with
Mandela's participation, the Freedom Charter,[7] a fundamental document
of the anti-apartheid struggle in South Africa. The Charter was approved
by the People's Congress meeting in Kliptown, Soweto, on June 26, 1955.
The objective of the Charter was to defend equal rights for all South
African citizens, regardless of their ethnicity, as well as land reform,
improvement of living and working conditions, fair distribution of income,
compulsory public education and effectively fair laws. We reproduce below
the beginning of Freedom Charter.

> We, the People of South Africa, declare for all our country and the world
> to know: that South Africa belongs to all who live in it, black and white,
> and that no government can justly claim authority unless it is based
> on the will of all the people; that our people have been robbed of their
> birthright to land, liberty and peace by a form of government founded
> on injustice and inequality; that our country will never be prosperous
> or free until all our people live in brotherhood, enjoying equal rights
> and opportunities; that only a democratic state, based on the will of
> all the people, can secure to all their birthright without distinction of
> colour, race, sex or belief; And therefore, we, the people of South Africa,
> black and white together equals, countrymen and brothers adopt this
> Freedom Charter; And we pledge ourselves to strive together, sparing
> neither strength nor courage, until the democratic changes here set out
> have been won.

Five years after the Charter was released, precisely on 21 March 1960, the
Shaperville Massacre took place, in which the apartheid police murdered
69 protesters and wounded 186, during a popular march with 7 000 people,

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7   See https://web.archive.org/web/20110629074215/http://www.anc.org.za/show.php?id=72.

against the Pass Law, which obliged every black citizen to carry a passbook so that it could be recorded by the police authorities where he came from and where he intended to go (Buzzeto, 2021). After this slaughter, the ANC engages in armed struggle, with Nelson Mandela as an important guerrilla leader. The Shaperville massacre shows that the apartheid state did not understand the perspective of reciprocity, the engagement with the commonality of Freedom Charter, expressed mainly in the statement: 'we, the people of South Africa, black and white together peers, countrymen and brothers adopt this Freedom Charter'.

ANTHROPOPHAGY AS DIALECTICAL INTERCULTURAL ETHICS

The Doors of Learning and Culture Shall be Opened! The government shall discover, develop and encourage national talent for the enhancement of our cultural life. All the cultural treasures of mankind shall be open to all, by free exchange of books, ideas and contact with other lands. The aim of education shall be to teach the youth to love their people and their culture, to honour human brotherhood, liberty and peace. Education shall be free, compulsory, universal and equal for all children. (The Freedom Charter)

Montaigne published in 1580 the essay 'Of Cannibals', where he describes:

[…] the ceremonies of the Tupinambá people in Brazil. In particular, he reported about how the group ceremoniously ate the bodies of their dead enemies as a matter of honor. In his work, he […] compares the cannibalism to the 'barbarianism' of 16th-century Europe.

An English translation, *Of the Caniballes*, appeared in John Florio's 1603 translation of the *Essais*. This has often been viewed (first by Edward Capell in 1781) as an influence on Shakespeare's *The Tempest*, in particular Act II, Scene 1.[8]

In this play, *The Tempest*, his last one, written in 1610–1611, Shakespeare represented through the conflict between Prosper and Caliban the beginning of the same contradiction that centuries later Mandela faced in his struggle

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8   See https://en.wikipedia.org/wiki/Of_Cannibals.

against apartheid. Among other important examples, we have Hegel's image of the dialectics of the master and the slave, which had a deep influence on Marx theory of class struggle. Besides, Hegel's idea of substance as subject, that have affinities with some Brazilian indigenous worldviews, was influenced by Spinosa, born in Netherlands, from a Portuguese jewish family, outcasted by the Inquisition. Following this crooked line, closer to Mandela's time, there are two great socialist playwrights and poets that fought against racism and capitalism, from faraway countries: Oswald de Andrade, in Brazil, and Bertold Brecht, in Germany.

France, Brazil, England, South Africa, Germany, the Netherlands, Portugal: what connects these countries in our argument is, historically, politically and literarily, their particular position and connection in the growth of capitalism, first as colonialism, later as imperialism, and in the struggles against it. Shakespeare was a contemporary of the second stage of the European maritime expansion, when Netherlands and England, followed by France, were gradually replacing Spain and Portugal as the main colonialist countries. Brazil and South Africa, despite their differences, are the result of the same process, carried by Portugal, the Netherlands and England. The Netherlands even occupied a part of Brazil from 1630 to 1654, and France tried the same in the 16th century, both having been expelled by the Portuguese. England, in turn, didn't have to occupy Brazil to have great control of it, because of its relations with Portugal, protecting the small country against the Spanish and French colonialist competitors and in return taking most of the wealth that Portugal extorts from Brazil. The disputes between the Netherlands and England for South African exploitation is well known. Germany played little in the colonialist and imperialist competition, until the Second World War, when the Nazis tried to impose in a most extreme and concentrated way the lessons of white supremacy learnt from their liberal democrats imperialist neighbours, with terrifying success for a few years, mainly in eastern Europe.

Back to Shakespeare's play, Caliban (an imperfect anagram that alludes to cannibal) represents the ambiguous image that Europe had of the original inhabitants of the new colonies: monsters and victims, more or less human. Prospero, the conqueror, by his secret science or magic, took the island from Caliban's mother, a powerful witch, Sycorax, killed her and turned him into a slave. At the same time, it was Prospero who taught Caliban to speak:

CALIBAN

> You taught me language; and my profit on't
>
> Is, I know how to curse. The red plague rid you
>
> For learning me your language![9]

Three centuries later, Oswald de Andrade published the *Manifesto Antropófago* (1928). A turning point in Brazilian cultural theory about the identity of the country, the Manifesto had deep influence on the following intellectual and artistic generations, and is also a piece of art.

In this text, the cannibal is the hero. That's why de Andrade sarcastically replaced the date of its publishing, 1928, for 'Year 374 of the Swallowing of Bishop Sardinha', in reference to the fact that Bishop Pero Sardinha was cannibalised by Caeté Indians on the northeastern coast of Brazil in 1556[10] (a double irony lies in the fact that the name of the Bishop, 'sardinha', in Portuguese, means sardine).

Pero Sardinha was declared the Bishop of Brazil in 1551. A few years later, having been called back to Portugal, his ship wrecked near the mouth of the river Coruripe and the ship crew was captured and eaten by the Caetés.

The Caetés were neighbours of the Tubinambás quoted by Montaigne and became allies of the French against the Portuguese, in the first intercolonialist disputes in Brazil. Later the Portuguese enslaved and extinguished them.

We must add that recent research questions whether Bishop Pero Sardinha would have even been devoured by the indigenous, since the reports are marked by the intention of condemning Caetés and making them subject to enslavement.

> The real reason for the death of the first bishop of Brazil could have been the revenge of the governor-general, Duarte da Costa, and his son Álvaro da Costa, who could have plotted such a crime and incriminated the caetés. Álvaro da Costa, a violent man, who used force to intimidate mainly the Indians, was sexually related to the native women. During one of his sermons, Bishop Sardinha reportedly condemned Álvaro da Costa's actions, which resulted in the start of a conflict between the bishop and the general-governor.[11]

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9   See http://shakespeare.mit.edu/tempest/full.html.

10   See https://pt.wikipedia.org/wiki/Pero_Fernandes_Sardinha.

11   See https://pt.wikipedia.org/wiki/Caet%C3%A9s_(tribo)#Canibalismo_e_exterm%C3%ADnio.

Whatever had actually happened, we read in the *Manifesto Antropófago*:

> Only anthropophagy unites us. Socially. Economically. Philosophically.
>> The world's one and only law. Masked expression of all individualisms, of all collectivisms. Of all religions. Of all peace treaties.
>> Tupi, or not Tupi, that is the question.[12]

'Tupi, or not Tupi, that is the question', originally written in English, is a genius pun, in form and content, based on Hamlet's famous speech. It is a synthesis of the entire Manifesto, naturally written in Portuguese: the word Tupi designates the inhabitants of most of the Brazilian coast and also their language. Thus, de Andrade, in a nutshell, ironically articulates one of the most well-known theatre speeches that carries a universal existential question, to the particular issue of Brazilian identity in the face of colonialism and imperialism, including the issue of the growing influence of English language already at his time.

In the 1950s, in *The March of Utopias and the Crisis of Messianic Philosophy*, Oswald de Andrade more consistently grounded his proposal for anthropophagy as 'a philosophy of the technicized primitive', based mainly on Montaigne (De Canibalis), Nietzsche, Marx and Freud, reformulated by the theses on Bachofen's matriarchy (Campos, 1975). Augusto de Campos (1975), one of the main representatives of Brazilian Concretism, a literary movement that began in 1956, provocatively estimates that, if he had written in English and not in Portuguese, Oswald de Andrade's original Brazilian philosophy would be in the pantheon of thinkers as original and unorthodox as McLuhan and Norman O. Brown.

The perspective of anthropophagy includes and goes beyond the foundations of cultural mediations by emphasising the critical and reflective aspect of cultural appropriation by the colonised, concomitantly with the radicalism of their political projection. In understanding the relationship with the other coloniser, it is not only a question of cultural resistance involved in the production of other meanings, for instance in the intersection between the popular and the massive in production and consumption (Martin-Barbero, 2004), but to swallow this other, breaking it into parts, expropriating its colonising matrix and enabling other

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12   See http://sibila.com.br/english/anthropophagic-manifesto/2686. See also https://pt.wikipedia.org/wiki/Manifesto_Antrop%C3%B3fago#cite_ref-1.

philosophical, educational and cultural formations that are part of an autonomous national project. Oswald advocated 'anthropophagic' culture as corresponding to matriarchal and classless society in opposition to paternal authority, repressive messianic culture, based on private property and the state (Campos, 1975). The proposal of a primitive technicised man who, like the cannibal, would 'devour' the techniques and information of the great world powers, appropriating his qualities, is related to the heterodox Marxism of the Peruvian José Carlos Mariátegui. In one of his most controversial theses, published in a statement sent to the 1929 Communist Conference in Buenos Aires, Mariátegui (2012 [1929]) defended that there would be elements in the collectivist traditions of the Incas, in their community spirit of cooperation, that would facilitate the development of communism in the Andean region. Although rejected at that time, Mariátegui's theses influenced the Castroist current in the continent and still echoes in social movement networks such as ALBA (Bolivarian Alliance for the Peoples of our America), which is fighting for an Afro–Indo–American socialism, clearly reference to the Peruvian author.

In a similar movement, Mandela teaches us that his school of leadership and democracy was not law school, nevertheless not neglecting it, but the tribal meetings of his youth, where the aim was consensus, not the support of the majority, while the Regent listened to everybody carefully, before stating his own position:

> My later notions of leadership were profoundly influenced by observing the regent and his court. I watched and learned from the tribal meetings that were regularly held at the Great Place. These were not scheduled, but were called as needed, and were held to discuss national matters such as a drought, the culling of cattle, policies ordered by the magistrate, or new laws decreed by the government. All Thembus were free to come – and a great many did, on horseback or by foot.
>
> On these occasions, the regent was surrounded by his amaphakathi, a group of councillors of high rank who functioned as the regent's parliament and judiciary. They were wise men who retained the knowledge of tribal history and custom in their heads and whose opinions carried great weight.
>
> Letters advising these chiefs and headmen of a meeting were dispatched from the regent, and soon the Great Place became alive with important visitors and travelers from all over Thembuland. The

guests would gather in the courtyard in front of the regent's house and he would open the meeting by thanking everyone for coming and explaining why he had summoned them. From that point on, he would not utter another word until the meeting was nearing its end.

Everyone who wanted to speak did so. It was democracy in its purest form. There may have been a hierarchy of importance among the speakers, but everyone was heard, chief and subject, warrior and medicine man, shopkeeper and farmer, landowner and laborer. People spoke without interruption and the meetings lasted for many hours. The foundation of self-government was that all men were free to voice their opinions and equal in their value as citizens. (Women, I am afraid, were deemed second-class citizens.) A great banquet was served during the day, and I often gave myself a bellyache by eating too much while listening to speaker after speaker. I noticed how some speakers rambled and never seemed to get to the point. I grasped how others came to the matter at hand directly, and who made a set of arguments succinctly and cogently.

[...]

As a leader, I have always followed the principles I first saw demonstrated by the regent at the Great Place. I have always endeavored to listen to what each and every person in a discussion had to say before venturing my own opinion. Oftentimes, my own opinion will simply represent a consensus of what I heard in the discussion. I always remember the regent's axiom: a leader, he said, is like a shepherd. He stays behind the flock, letting the most nimble go out ahead, whereupon the others follow, not realizing that all along they are being directed from behind. (Capurro, 2020: 15–16)

As Oswald de Andrade had a profound interest on Brazilian indigenous history, legends and myths, so did Mandela in relation to African ones. But this doesn't mean that neither of them was searching for some kind of pure hidden original identity or truth, nor neglecting the whole of imperialist culture. Both were aware and respected part of the cultural deeds of the oppressor, science, technology, literature, etc., but at the same time they saw and promoted the beauty, strength and rationality of what was considered ugly, weak and irrational by the status quo of their times, and denounced the irrationality, ugliness and weakness present in part of the imperialist culture. By this movement, they were pointing towards an

Aufhebung of the contradictions between tradition and modernity, idealistic ancient inner identity and idealistic progress from outside, in a combative intercultural information ethics attitude, as far as both were dealing at this point with codified signs, of great complexity, such as history, tales, legends and myths, in an imperialist arena. We call this intercultural information ethics attitude dialectical anthropophagy.

> Most men, you know, are influenced by their background. I grew up in a country village until I was twenty-three, when I then left the village for Johannesburg. I was of course ... going to school for the greater part of the year, come back during the June and December holidays – June was just a month and December about two months. And so all throughout the year I was at school ... And then in [19]41 when I was twenty-three, I came to Johannesburg and learned ... to absorb Western standards of living and so on. But ... my opinions were already formed from the countryside and ... you'll therefore appreciate my enourmous respect for my own culture – indigenous culture ... Of course Western culture is something we cannot live without, so I have got these two strands of cultural influence. (Mandela, 2010: 8–9)

Of course, there are huge differences between both men's lives and works: Nelson Mandela was a great revolutionary leader of an oppressed majority of the South African population, writing his auto bibliography in jail during the Apartheid Regime, while Oswald de Andrade was a leftist avant garde intellectual born in the midst of Brazilian São Paulo elite, writing his Manifesto in a relatively rare safe moment for free speech in Brazilian History. Besides, the latter wrote his artistic Manifesto between the two World Wars, while the first wrote his autobiography during the Cold War. Many other differences between them, their countries and epochs could be explored. But the point here is to explore a similarity in their approach to a very difficult common intercultural ethical dilemma: how to fight cultural and economic colonisation and imperialism without rejecting the whole of its influence? How to filter it, in order not to be alienated from what we are or are becoming, but at the same time avoiding the defense of an idealised pure inner traditional identity, so appropriating the good things that the invaders brought amidst oppression and using those things against them, as oppressors, and at the same time strengthening ourselves?

The main idea of the *Manifesto Antropófago* was that building a

Brazilian cultural identity should not search for imaginary mythical inner identities in the past, nor neglecting Brazilian history, despite its miseries, in favour of the way of living and thinking of the most developed countries of the time. Its dialectical anthropophagical praxis, we say, in its relation to imperialism, was to preserve from Brazilian past not the idealised beauty of an indigenous simulacrum of European romantic also idealised national soul, authenticity or golden age, but the cannibal, the dangerous other of the coloniser, the proud one who literally, not literarily, ate him, not because of hunger, but to get the best of him for himself, rejecting the rest, strengthening and renovating himself.

Didn't Mandela do something like that, embracing boxing and socialism, rejecting racism and capitalism?

Long Walk to Freedom is an epic of critical engagement. Critical engagement is the path to Gramscian catharsis (Heller, 1974), when individual feelings, motivations, ideas and actions go beyond selfish individualism and link themselves with the suffering, wills, fights and destiny of the oppressed, with passion but without losing reason, on the contrary. In everyday life people tend to act in a more immediatist, utilitarian, selfish and un-reflected ways, while the suspension of daily life leads to artistic, philosophical, scientific and ethical ways of feeling, thinking and acting.

The Gramscian catharsis, for Heller (1974), represents the culmination of this process.

Critical engagement was the cause, the path and the goal of Mandela's whole fight. He began it from engagement with the struggle of his people against racism and general capitalist oppression. He wrote his autobiography not for vanity, but because his friends convinced him in prison that it could be a piece of resistance and engagement for the next generations to fight against racism, capitalism, general oppression. The epic character of this book lies both in its content and in its material history of being written, copied, hidden from prison authorities in multiple ways, including its clandestine jailbreak and country escape, to be published abroad, and its calculated and also clandestine re-entrance in South Africa, as an important engagement weapon in the struggle against apartheid.

Mandela, along with his peers, showed the skills that Brecht pointed to as necessary in writing the truth, mainly in dangerous situations, as Germany ruled by the Nazis or South African apartheid, as quoted above:

personal courage, interpretative accuracy of the general concrete situation, rhetoric ability, strategy, information techniques, as to write it in moments with less probable surveillance, to copy, to bury, to produce miniature copies:

> We created an assembly line to process the manuscript. Each day I passed what I wrote to Kathy, who reviewed the manuscript, and then read it to Walter. Kathy then wrote their comments in the margins. Walter and Kathy have never hesitated to criticize me, and I took their suggestions to heart, often incorporating their changes. This marked-up manuscript was then given to Laloo Chiba, who spent the next night transferring my writing to his own almost microscopic shorthand, reducing ten pages of foolscap to a single small piece of paper. It would be Mac's job to smuggle the manuscript to the outside world. The warders grew suspicious. [...]
>
> Mac ingeniously hid the transcribed version of the manuscript inside the binding of a number of notebooks he used for his studies. In this way, he was able to safeguard the entire text from the authorities and smuggle it out when he was released in 1976. The arrangement was that Mac would secretly communicate when the manuscript was safely out of the country; only then would we destroy the original. In the meantime, we still had to dispose of a five-hundred-page manuscript. We did the only thing we could do: we buried it in the garden in the courtyard. Surveillance in the courtyard had become careless and sporadic. The warders usually sat in an office at the northern end talking among themselves. From that office, they could not see the southern end next to the isolation area where there was a small garden. I had casually inspected this area on my early morning walks, and it was there that I decided to bury the manuscript. (Capurro, 2020: 10–11)

Brecht smuggled his writing from France into German territory under the false title of 'Practical Guide to First Aid', what it effectively was, indeed, but not in the literal sense that deceived Nazi authorities!

Contrary to Saint Augustine, but mainly Kant (1997), given that Augustine was more tolerant and subtle than Kant in evaluating and dealing with lies motivated by ethical and political commitments, Brecht resorted to the cunning of the 'lie' in the political ethical struggle for the truth. We say 'lie' in quotation marks based on Saint Augustine himself,

who in his *On Lying* and *Against Lying* (2019) distinguishes figures of speech, as metaphors, from lies, taking, for instance, in addition to Aesop and other pagan writers, passages from both testaments. In this sense, the fact that Brecht gave the title of 'Practical Guide to First Aid' to his subversive pamphlet 'Writing the Truth – Five Difficulties', so that it could clandestinely enter and circulate in Hitler's Germany, touches at least three sensible information ethics issues. First: the false title corresponds to the truth, so apparent cunning can be essential truth. Second: by problematising the difficulties of writing the truth, in general and in the context of the anti–Nazi struggle, Brecht at the same time proposes fundamentals and ways of solving it, composing an effective practical guide of first aid, in ethical, political and epistemological integrated terms, with its cognitive, rhetorical, aesthetic, tactical and strategic moments. Third: the aim and the means to reach a select audience, not the status quo's, but of a possible vanguard of resistance, consists of an exemplary moment of information ethics praxis, emancipatory theory and practice developing in mutual and open feedback, through the content, cover and trajectory of a pamphlet, somehow similar to the epic writing and circulation of Mandela's book *Long Walk to Freedom*.

FINAL REMARKS

Long Walk to Freedom, besides its inspiring content, is the result of the action of writing a book in prison, hidden from the warders, making copies, burying them etc., which obviously requires:

1. Concentration and suspension of daily life, of generalisations, stereotypes, conformism, prejudices;
2. Technical information abilities, as long demonstrated above;
3. Questioning the necessity of the whole task, considering concrete means and ends facing the individual danger for the people involved in the production and circulation of the book and the expected effect of its circulation over its potential readers, in order to increase their engagement with the struggle;
4. Questioning the relevance of its content, that should be selected very carefully from Mandela's and his peers' memories, because they had very poor access to other sources of information, as was the case of Gramsci's prison writings;

5. Questioning the legitimacy of its source, Mandela and his peers' memories, because memory fails;

6. Reflecting on the ethical implications of the whole informational movement, risking the already precarious quality of life of its writer, reviewers, copyists, etc., for the engaged goal to multiply engagement;

7. The deep and strong critical praxis that comprises the whole process, in form and content; and

8. Critical engagement with the common, for all reasons above.

In this chapter, we aimed to demonstrate that Mandela developed the eight levels of CIL to a higher ground.

Besides the field of information science, CIL necessarily involves 'media literacy'. Within UNESCO and in several forums, the acronym MIL is used to designate the notion of media and information literacy.

We understand that the debate involves informational issues of an interconnected ethical, political and epistemological order, which orbit around the themes of freedom, power and truth.

The development of CIL requires and favours at the same time a sympathetic engaged worldview against injustice, oppression, abuse, and the will to fight those.

In intercultural conflict situations, structured by unequal power relations, Oswald de Andrade's concept of anthropophagy could be taught as a dialectical intercultural information ethics strategy, together with Brecht's issues on the difficulty to write the truth and Freire's critical pedagogy.

In the information ethics field, these general ideas or feelings relate to reflections and actions over how information practices reinforce or, on the contrary, oppose oppression and injustice. From this general frame, there are more specific themes, like freedom of speech, misinformation and access to accurate information, right and means of informing and being informed, formal education, critical sense, understanding the relationship between information practices and social disputes, mainly political, economic and ideological ones. Information practices are production, reproduction and sharing of information – i.e. communication – in all scales, plus search, selection, retrieval, archive, organisation, classification, secrecy, surveillance, deceiving, etc. These practices necessarily involve actors, institutions and technologies, and are mediated by the time, social geography, culture, age, gender, race, class, individual idiosyncrasies and

the state of class struggle at a given time.

From this perspective, we think of Nelson Mandela's *Long Walk to Freedom* not only as a very touching personal testimony, but also as a critically engaged information ethics document and weapon amidst a particularly hard moment of the class struggle of 20th century.

Oswald de Andrade, in an aphorism of his *Manifesto Antropófago*, makes the following provocation: 'I asked a man what the Law was. He replied that it was the guarantee of exercising the possibility. This man was called Galli Mathias. I ate him.'

Here, an explanation is needed to understand a pun in Portuguese, essential to get in greater depth the provocation of Oswald de Andrade. The fictitious name Galli Mathias has the same sound and almost the same spelling as 'galimatias', a word in Portuguese that means verbose, hermetic, pernostic discourse, very characteristic of the legal vocabulary. It is thought provoking that two lawyers, Mandela and Freire, have dedicated their life and work to the struggle for liberation, to freedom of information as the centre of a free society (Capurro, 2020), to the fight for justice, still open. And they did so very far from 'galimatias', but democratising the word in order to democratise the world, engaging with the common, with the struggle for political and human emancipation.

Like Brecht facing the Nazis, Freire and Mandela were challenged to write the truth pursued by the civil-military dictatorship in Brazil and Mandela, persecuted and imprisoned by the apartheid state in South Africa. Verne Harris (2011), head of the Memory Program for the Nelson Mandela Center of Memory and Dialogue at the Nelson Mandela Foundation, argues that legacies are never received, they are always made and remade. And that only to memorialise Mandela's life and work would be to betray his legacy. According to Harris (2011: 119), the challenge is 'to honor his name by being engaged in liberatory work'.

The aim of this paper was to contribute to some extent with this legacy through a perspective that rescues the history of Mandela's struggle in dialoge with Oswald de Andrade, Bertold Brecht and Paulo Freire, and projects a future of freedom, whose long walk requires engagement with the common, and a critical attitude regarding the media and information in general.

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Nelson Mandela and pan-Africanism: A nexus of identity, voice and resistance

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INTRODUCTION

Naming and identifying the subaltern or the Other is a 'political and discursive construction strongly embedded in colonial and colonizing practices' (Abdelhay et al., 2021: 10). The normalisation of the politics of naming and identifying the Other by those who dominate cultural representations is an attempt to legitimise this process (Foucault, 2000: 86–88; Berg and Kearns, 1996: 15). The Eurocentric approach to centring and understanding the world denies agency to the Other while rewriting their histories and redefining their identity. Consequently, this leads to a devoicing of the subaltern as their identities are rewritten to appeal to Western discourses, which in turn renders them invisible.

During my first years as an African graduate student in the United States, Americans found it difficult to comprehend that I am not from Africa but rather Sudan (*not* Sweden), the largest country (at the time) in Africa. I would be asked questions such as 'Do you know so and so from Nigeria?' and I would have to explain that Nigeria is a completely different country on the western part of the continent. However, the only times that Americans clearly understood where I came from was when I stated that I hailed from the same continent as Nelson Mandela. My identity had become intertwined with that of a revered and respected African leader. I carried this new-found identity with great pride and joy. Mandela represented a resilient, magnificent and wise Africa, not an impoverished and disease-infested continent as

represented by Western media. I sought and found all those who shared this African identity defined by Nelson Mandela, ironically at a time when I was 11 000 kilometres away from Africa.

The following chapter examines Nelson Mandela's legacy and how it helped Africans regain agency and voice outside the confines of Western discourses and understandings. While Africa has become synonymous with Mandela, a pan-African identity (unlike the Eurocentric approach) does not mean an erasure of the myriad languages, cultures and religions found on the Continent. Rather, it is an introspective examination and acceptance of differences among Africans and a common destiny for Africa.

TOWARD A PAN-AFRICAN IDENTITY

African scholars, visionaries and intellectuals have long proposed that a shared sense of identity and pan-African fate will serve the continent well in its quest to shed the shackles of colonialism (McCall, 2007: 1). 'Since its inception at the end of the nineteenth century, the idea of a cultural pan-Africanism was vexed by the continent's cornucopia of cultures, languages and religions' (McCall, 2007: 1). While a shared history of strife against European colonisers evoked a sense of intertwined identity, African intellectuals and artists sought to cultivate a common African culture and consciousness through creative production and shared repositories of information. This common culture would transcend the mosaic of different religions, languages and cultures found across the continent. Intellectuals envisioned a pan-African identity, the crux of which is a politically conscious African populace (Barlet, 2000: 54). It was envisaged that literary and artistic production would be the catalyst for Africans to come together and feel that they have a common identity and fate (Nyamnjoh, 2010: 38).

However, a pan-African identity, built upon a common culture of literary and creative production, was never truly realised. Political repression, educational and economic setbacks were major obstacles impeding the rise of a politically conscious African populace. Despite these impediments, universities across the continent (although limited in numbers) and historically black colleges and universities (HBCUs) in the United States played a crucial role in nurturing the concept of Pan-Africanism (Asante, 2010: 127; Fenderson, 2010: 83; Franklin, 2011: 47).

It was Mandela who strongly argued that universities and other educational institutions provide much needed space where Africans of different tribes and cultures can come together to truly get to know one another and see how they are interrelated (Mandela, 1995: 64). He detailed his own experience in high school where he met and befriended students from other tribes who he would have otherwise not encountered. These relationships later became pivotal for his work with the African National Congress (ANC) and the struggle against apartheid. Mandela 'traced the genesis of his pan-African identity to his experiences at both high school and college' (Malisa and Nhengeze, 2018: 9). Fort Hare University in South Africa was one of the African institutions that offered an excellent education for Africans, including the likes of Steve Biko, Robert Mugabe, Seretse Khama, Julius Nyerere, Desmond Tutu, Joshua Nkomo and Govan Mbeki (Malisa, 2010: 23). It is at Fort Hare and similar institutions on the continent that pan-Africanism took root. Apartheid and colonialism in their quest to reign in Black masses fostered the growth and spread of pan-Africanism through the existing segregated universities and limited institutions of higher education.

With the end of independence movements on the continent as well as setbacks with the Civil Rights movement in the United States, pan-Africanism lost its grounding and appeal (Armah, 2010: 16). This was further exacerbated by the rise of dictatorships in Africa and economic hardships. African intellectuals were unable to solve the continent's problems or help their people realise the dream of a prosperous and united Africa (ibid.).

The end of apartheid in South Africa in 1991 saw a rekindling of the concept of pan-Africanism, guided by the notion of a prosperous and harmonious Africa, free of political and economic strife (Ajulu, 2001: 33). Former South African president Thabo Mbeki's articulation of the African Renaissance gave a sense of optimism regarding Africa's future trajectory at the beginning of the 21st century (Mulemfo, 2000: 22; Ajulu, 2001: 34; Bongmba, 2004: 297). Mbeki's articulation of the African Renaissance was contingent on the social cohesion, democracy, economic growth and launch of Africa as an independent and impactful geopolitical player. The African Renaissance paid close attention to the continent's particularities, examining it through the lens of its unique cultures and histories, and acknowledging its diversity. Although all 54 African countries were now

politically independent, they continued to falter economically behind Western and Asian countries. While political independence was realised, Africa's economic independence was not; consequently, neither prosperity nor unity manifested on the continent.

VOICES OF THE SUBALTERN IN SUDAN: NEW MEDIA, RESISTANCE AND REVOLT

The internet and social media platforms have granted the marginalised and those on the periphery the ability to freely 'articulate their own perspectives' (Keller, 2012: 430). They are allocated space where they can assert themselves and 'make arguments to be seen as equal and serious socio-political actors and agential citizens' (Mpofu, 2016: 273). The concept of voice as articulated by Mitra empowers marginalised groups, granting them a 'heteroglossic and hyperconnected' voice that could be used to 'voice the unspeakable stories and eventually construct powerful connections that can be labelled as "cyber communities"' (2001: 29).

In Mitra's view, the internet is of particular importance to the dispossessed because it can: 'open up the possibility of having voice, produce alliances (aka cyber communities) with unique characteristics, and … can help to renegotiate identities in a structured system' (2001: 30). The dispossessed, marginalised and subaltern exist in systems where they are devoid of voice and agency; they are spoken for and their identity is defined for them (Spivak, 1988: 55). This perspective is evidenced in the work of many scholars. It is relevant in the work of Said on Orientalism (1978: 87); Sorenson's research into the silencing of the Oromo (452); Sant-Wade and Radell's (1992: 11) examination of immigrant women from the Third World struggling to articulate their identity; and Rakow's (1998: 213) appraisal of technology and its facilitation and impediment of creating a gendered voice.

Marginalised groups, especially those in developing contexts and patriarchal societies, find themselves as dispossessed members of society without a voice on issues that are important to them. They exist in societal structures where they are spoken for and have no representation that allows them to be 'heard and acknowledged' (Mitra, 2001: 31). New technologies have reconfigured the flow of information and in turn enabled these groups

to disrupt the traditional flow of information and be active agents and citizens rather than passive victims (Keller, 2012: 433). These technologies have afforded the marginalised new communicative spaces alternative to the mainstream, spaces where they 'occupy a subaltern status as a counter-public' (Mpofu, 2016: 274).

December 2018 was the start of what became known as Sudan's December Revolution, leading to the end of former dictator Omar al-Bashir's 30-year rule. In 1989 the Islamist coup, led by former president Omar al-Bashir, suppressed the rights and freedoms of Sudanese citizens, especially those of women and other marginalised groups. Resistance and revolt of the subaltern found a haven and freer communicative spaces on the internet. In these spaces common grievances were shared and articulated, eventually leading to mobilisation on the ground (Hassan and Kodouda, 2019: 90).

On 18 December 2018, in several cities across the country, the Sudanese people took to the streets in leaderless and uncoordinated protests. The subaltern was boldly yet peacefully challenging the authoritarian regime. Opposition parties convinced the popular Sudanese Professional Association (SPA), a civil society group, to become the political face of the revolution, calling for and organising peaceful demonstrations across all of Sudan. The SPA primarily used its social media platforms to disseminate information on protests (Hassan and Kodouda, 2019: 92). 'Freedom, Peace, and Justice' was the opening phrase for any SPA communication with the Sudanese public. These three words became the mantra for the Sudanese December Revolution; a revolution named by those who initiated and died for it and not those writing about it in Western media.

The SPA rallied the subaltern around the fight for 'Freedom, Peace, and Justice' while evoking Nelson Mandela and the ANC's struggle in South Africa to peacefully dismantle the apartheid system. Most SPA organisers as well as protestors were young people who were not alive to witness South Africa's and Mandela's struggle against apartheid, yet they chose to summon this African history and approach to mobilise and revolt peacefully. The internet introduced these young people to Mandela's fight against injustice, giving rise to a politically conscious public grounded in Afro-Centric struggles.

The Sudanese subaltern saw itself in the South African struggle, testimony to a kinship and a pan-African identity that extends 4 868

kilometres from the eastern part of the continent to its southern tip. As Sudanese, we do not speak the same language/s or come from the same culture/s as Mandela and other South Africans, yet we see our struggles as similar to those of South Africa; the experiences resonate. The SPA chose to heed Mandela's approach and not Gandhi's in India or even Martin Luther King's in the United States because African histories, strife and destiny are bound to intersect. Advances in the digital environment and the advent of new media technologies assert the notion that information is a public good. In the African case, information is not only a public good but an opportunity to forge a better understanding of each other's experiences and histories.

As a 20-something-year-old graduate student in the United States, I found my African identity defined by Nelson Mandela and his representation of the continent. Currently, I follow with great angst as my precarious and fragile country Sudan transitions into democracy. Yet, when I see how the Sudanese continue to fight and believe in this democratic transition while evoking Mandela's struggle, a sense of calm and certainty of success engulfs me. Our histories, identity and voices as Africans will always be defined by Mandela and his struggles and victories. A luta continua a vitória é certa.

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'How precious words are': Mandela as an infomoral exemplar and silence as a virtue

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INTRODUCTION

> It is never my custom to use words lightly. If 27 years in prison have done anything to us, it was to use the silence of solitude to make us understand how precious words are and how real speech is in its impact on the way people live and die. (Mandela, 2003: 402)

Nelson Mandela spoke these words in the closing address at the 13th International Aids Conference, held in Durban in 2000. On the surface, he was acknowledging the privilege he had in being able to address so many on such an occasion and the effect his words may have on the lives of millions. But more deeply, Mandela was hitting upon an essential truth of human being: that words are *precious* – valuable, venerable, to be cherished. Words are precious for many reasons: not everyone is free to use them, they are humankind's chief means of effectuating the world, and they are our priceless inheritance from our forebears.

Mandela's observation may strike us as odd today. We all get any number of less-than-precious spam emails a day, and our social media streams are overflowing with more messages than we can possibly tend to. And this is to say nothing of the news cycle – which in 2020, as I write these words, seems more rampant than ever. In his novel *The Book of Laughter and Forgetting*, Milan Kundera makes an observation that haunts me when I reflect on this state of affairs: 'Once the writer in every individual comes to life (and that time is not far off), we are in for an age of universal deafness and lack of understanding' (Kundera, 1980: 106).

That time has arrived. The web allows us to speak further, more often, more loudly and more incisively than ever before. And yet we seem, by and large, to be oblivious to *how precious words are and how real speech is in its impact on the way people live and die*.

Mandela's observation calls us to remember, as much as possible, to speak carefully and listen heedfully. In this chapter, I will discuss how we might do so by cultivating silence as a virtue. This discussion flows from an understanding of Nelson Mandela as a moral exemplar – a figure who is admirable and worth emulating for his qualities of thought and conduct – and specifically what I call an informational-moral or *infomoral* exemplar, whose being an example is particularly relevant to information ethics.

EXEMPLARIST MORAL THEORY AND INFORMATION ETHICS

To put it telegraphically, ethics is the study of right action. There are three main orientations in ethical theory – deontology, consequentialism and virtue ethics – each of which focuses on a different aspect of action to separate good from bad: deontology focuses on rules and duties that guide action; consequentialism focuses on outcomes of actions; and virtue ethics focuses on the traits of the person doing the action.

Though the study of ethics in the West began with virtue ethics among the Ancient Greeks, virtue ethics gradually fell out of favour as the Judeo-Christian religions, with their focus on laws, flourished and later gave way to the enlightenment ideals of calculated rationality (Rachels, 2015). But since the 1950s, there has been a resurgence of virtue ethics, which has been attributed to the influence of Elizabeth Anscombe's (1958) paper 'Modern

Moral Philosophy', which expressed skepticism of rigid, universal moral codes, particularly in secular society. Apart from Anscombe's arguments, several scholars in information and technology ethics have argued that virtue-based and other constructionist approaches to ethics (those that feature moral agents who can learn and grow to become better over time) are best suited to our contemporary sociotechnical milieu (Floridi, 2013; Heersmink, 2018; Vallor, 2016).

As an aside, it is interesting to note that the virtue orientation has made its way into other realms of philosophy in recent years, including epistemology and ontology. Applying a virtue-based approach to epistemological questions has resulted in the field of virtue epistemology, in which a belief is considered good if it stems from wise reasoning. Whereas virtue ethics focuses on moral traits, virtue epistemology focuses on intellectual traits, such as courage, curiosity and perseverance (Baehr, 2015; Kvanvig, 1992). And in ontology, a virtue-based approach can explain how 'caring about and valuing things' can result in the 'mutual enhancement of self and world which is the result of love in all its forms and degrees' (Wright, 2016: xi); on such an account, that is, good things exist more and better than bad things.

In this chapter I will work with exemplarist moral theory, a recent contribution to virtue ethics, which has been developed by Linda Zagzebski (1996, 2017). According to this theory, we can only identify virtues, duties, etc., by beginning with moral exemplars – people we admire and strive to emulate because of their moral behaviour. Zagzebski sketches three archetypical moral exemplars: the hero, exemplifying courage; the saint, exemplifying charity; and the sage, exemplifying wisdom. Of these three, the sage would seem to have the most direct relevance to information ethics – wisdom has long been said to be the ultimate epistemic aim of information (Gorichanaz, 2017) – though perhaps the greatest moral exemplars among us exhibit virtues that cut across all three categories. One of several benefits of exemplarist theory is that scholars need not agree from the outset on definitions for abstract terms such as 'wisdom', nor on the particular categories of hero, saint and sage; rather, investigations begin with particular agreed-upon exemplars.

Here we will consider Nelson Mandela as an informational-moral, or *infomoral*, exemplar. Methodologically, my analysis draws mostly from narrative, including (auto)biographical material, as well as

relevant philosophical and empirical studies. This chapter constitutes a contribution to Zagzebski's theory in further developing her notion of the sage, identifying different ways to be a 'sage'. Zagzebski (2017: 39) herself suggests this as a fruitful path for further research. She mentions that heroes and saints have seen comparatively more empirical study than the sage, in part because their actions are outwardly observable whereas the workings of the mind may not manifest in observable behaviours. In my view, the analytical lens of information studies, including investigation of human information behaviour and practice, is a way to make visible the cognitive work of the sage – which involves documents and information systems as much as it does the brain.

MANDELA AS AN INFOMORAL EXEMPLAR

Moral exemplars are the people we admire and strive to emulate. Nelson Mandela, it goes practically without saying, fulfills both these criteria. A well-known figure, Mandela has been a frequently nominated exemplar specifically for wisdom (Paulhus et al., 2002), and many strive to emulate him. In fact, something of a 'cottage industry' of Mandela-inspired self-help books has arisen since the 1990s, providing 'catalogues of techniques for better living, supported by anecdotes, aphorisms, or quotes' (Davis, 2014: 185). For example, Richard Stengel, writer and editor at *Time* magazine and collaborator with Mandela on *Long Walk to Freedom*, wrote that 'Mandela's life is a model not just for our time but all time' (Stengel, 2010: 19).

Steve Davis (2014) is critical of this trend, which he construes as the commercialisation and even distortion of who Mandela the man was. Yet there is some evidence that Mandela himself thought his life story could be used in this way. Mandela wrote the following to his wife Winnie in 1975 when she had just been imprisoned:

Incidentally, you may find that the cell is an ideal place to learn to know yourself, to search realistically and regularly the process of your own mind and feelings. In judging our progress as individuals we tend to concentrate on external factors such as one's social position, influence and popularity, wealth and standard of education … But internal factors may be even more crucial in assessing one's development as a human being. Honesty, sincerity, simplicity, humility, pure generosity, absence

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of vanity, readiness to serve others – *qualities which are within easy reach of every soul* – are the foundation of one's spiritual life. Development in matters of this nature is inconceivable without serious introspection, without knowing yourself, your weaknesses and mistakes. At least, if for nothing else, the cell gives you the opportunity to look daily into your entire conduct, to overcome the bad and develop whatever is good in you. Regular meditation, say about 15 minutes a day before you turn in, can be very fruitful in this regard. You may find it difficult at first to pinpoint the negative features in your life, but the 10th attempt may yield rich rewards. Never forget that a saint is a sinner who keeps on trying. (Mandela, 2010: 211–212, emphasis mine)

With this letter, Mandela explicitly draws lessons from his own life experience for the edification of the reader. While the ostensible primary audience for this letter was his wife, Mandela knew it was uncertain whether Winnie would actually receive the letter (Mandela, 2010: 181), and he recorded a copy in his own private records for posterity, which was then published in *Conversations with Myself* – not only buried midway through the book, but printed as the epigraph.

There are many features of Mandela's life that make him worthy of admiration and emulation from the perspective of information ethics. From an early age Mandela learned to value democratic participation, sharing stories, verbal negotiation and perspective-taking (Mandela, 1994: 24–27, 326–327), and he carried these tenets into his leadership positions. He also recognised the role of education in inspiring life meaning, particularly purpose (Mandela, 1994: 194–196) and the role of messaging and documentation in helping a political cause cohere and propagate (Mandela, 1994: 732–737). And once his political career had ended, Mandela turned to visual art as a mode for (nonverbal but still information-laden) expression and reflection (Cascone, 2018). Taken as a whole, Mandela's life attests to the power of building one's life around a noble cause. Mandela also shows us how information can lead to freedom – provided it is stewarded responsibly and made accessible.

Of course, Mandela did not leap from the womb as a moral exemplar. His recollections from his youth show his journey of development, exemplifying that growth is possible, consonant with the underlying constructionist assumptions of virtue ethics. As Mandela wrote in a fragment from his unfinished autobiography:

As a young man I … combined all the weaknesses, errors and indiscretions of a country boy, whose range of vision and experience was influenced mainly by events in the area in which I grew up and the colleges to which I was sent. I relied on arrogance in order to hide my weaknesses. As an adult my comrades raised me and other fellow prisoners … from obscurity … although the aura of being one of the world's longest serving prisoners never totally evaporated.

One issue that deeply worried me in prison was the false image that I unwittingly projected to the outside world of being regarded as a saint. I never was one, even on the basis of an earthly definition of a saint as a sinner who keeps on trying. (Mandela, 2010: 409–410, ellipses sic)

Mandela's own growth on his journey was aided by his inspiration and emulation of other moral exemplars, most notably Jesus Christ. That is, the moral exemplar under discussion here had his own moral exemplars to emulate. This would be predicted by exemplarist moral theory. Speaking of wisdom, Zagzebski writes that 'in our natural moral development we learn what wisdom is by observing or reading about the persons who attract us in the way wise persons attract us' (Zagzebski, 2017: 83). Mandela was a lifelong Christian, and he took seriously the invitation to live like Christ. ('Be imitators of me, just as I am also of Christ', writes Paul in 1 Corinthians 11.) While in prison, Mandela's political views may have changed, but his spiritual ones only deepened. In a poignant episode, Mandela recounted the trial of Jesus by Pontius Pilate. Writing in a letter to his wife, he reflected upon the events as depicted in the novel *Shadows of Nazareth*, which he had read six years prior and recounted 'purely from memory' (Mandela, 2010: 223). Inhabiting the perspective of Pilate, Mandela wrote: 'I looked at the prisoner and our eyes met. In the midst of all the excitement and noise, he remained perfectly calm, quiet and confident as if he had millions of people on his side' (Mandela, 2010: 225).

SILENCE AS AN INFOMORAL VIRTUE

According to exemplarist moral theory, moral learning occurs through emulation. That is, we imagine ourselves as the exemplar – having their qualities, being in their situations, acting as they do – and this leads to an imagined idealised self. In an effort to bring that self into being, we

then emulate the exemplar's motives and acts as best we can in our own situations (Zagzebski, 2017: 138).

Much has been written on the prospect of emulating Mandela (Davis, 2014). Stengel himself wrote the book *Mandela's Way* (Stengel, 2010), which includes chapter titles like 'Look the Part', 'See the Good in Others', and 'Know When to Say No'. The present volume is dedicated to conceptualising Mandela not simply as a moral exemplar, but an infomoral one. In this chapter, I want to focus on one of Mandela's infomoral virtues that seems especially worthy of emulating in today's digital milieu: silence. Exploring the meaning of silence as a virtue will lead us to a deeper understanding of 'how precious words are'.

Before going deeper, a note on the concept of virtue. Broadly, a virtue is a type of character trait. This means virtues are not only manifest in actions, but also in one's mind. Zagzebski fleshes out the definition of *virtue* in this way: 'a deep and enduring acquired trait that we admire upon reflection, consisting of a disposition to have a certain emotion that initiates and directs action towards an end, and reliable success in reaching that end' (Zagzebski, 2017: 113). In this chapter, I am considering silence as a virtue in this sense, which may seem a slight departure from how this word is generally used. In everyday language, *silence* may be taken to be the absence of sound. But this is a thin description that, I would argue, does not capture the full meaning of the concept. For instance, it does not explain how a person can experience silence in a noisy place or feel unnerved and distracted in a quiet place. Silence is, rather, borne in the relationship between a person and their context. It is a way of orienting oneself in the world, of coping with the contingencies of certain situations – a constellation of thought and action. The virtue of silence involves making space amidst the din of the world for the conscience to speak, and it constitutes a pause that involves stepping back from one's situation to listen from a different vantage point. While some lived situations are certainly more conducive to silence than others, this virtue is always at our disposal to practice.

TIME IN PRISON

Being in prison presents a person with large amounts of unstructured time – often measured in years. Those who manage this time well tend to achieve positive mental health and life outcomes, while those who do not manage it

well tend to have poorer outcomes (Garner, 2020). As Garner (2020) writes, reading is a tactic used by prisoners to manage their unstructured time, experiencing time in a more positive way.

In some cases, prison readers undergo serious intellectual development. One example that comes to mind is philosopher Bernard Stiegler (1952–2020), who recently passed away as I write these words. As a young man, Stiegler robbed a number of banks and was eventually caught and imprisoned for five years; in prison, he methodically read poetry and philosophy and went on to become a pupil of Derrida, eventually emerging as one of the most illustrious contemporary philosophers of technology (Stiegler, 2009). While Stiegler's may be an extreme case, there are other examples of thinkers who made the best of their time in prison to develop their intellects, including Eugene Debs (1855–1926), Antonio Gramsci (1891–1937) and Malcolm X (1925–1965) (for a discussion, see Hitz, 2020). Of course, we can add Nelson Mandela to this list as well.

While in prison, Mandela spent much of his time reading and writing. He read widely, including the classics – 'It is one of the greatest experiences … you can have, you know, to read a Greek tragedy and Greek literature in general' (Mandela, 2010: 113) – as well as Islam and Afrikaans (Sampson, 1999). Starting in 1962 he pursued a Bachelor of Law degree from the University of London via correspondence course. He faced any number of setbacks along the way, but eventually he received his degree from the University of South Africa in 1989, while he was still imprisoned. He said of his life after prison, 'I just can't read anything now and it's one of the things I regret very much' (Mandela, 2010: 9).

Mandela wrote just as much as he read; *Conversations with Myself* is comprised mostly of letters Mandela wrote while in prison – and these comprise only a fraction of the letters he wrote. He continued this practice even though he knew many of his letters would never be delivered – 'Letters from me hardly ever reach [their] destination and those addressed to me [fare] no better' (Mandela, 2010: 181). Indeed, Mandela tended to write his letters twice, one copy to send and one to keep (Mandela, 2010: xix).

SILENCE

As noted above, silence may be preliminarily defined as the absence of sound. Of course, the absence of sound is physically only possible in a

vacuum – and no human being would last long in such a place. Even inside an anechoic chamber, which blots out all external sounds, a person still hears the sounds emanating from their own body (Cox, 2014). Yet we can experience silence, sometimes even in an objectively loud place. Sitting in a coffee shop, I may feel that the place is silent, even while the person next to me is endlessly distracted by the background music, clanking dishes, sliding chairs, conversations, etc. So we might define silence more precisely as the experience of the absence of *sound that calls our attention*. And because silence may feel more silent when we are not distracted by things we are seeing, smelling, tasting and touching, we might even define silence as the experience of the absence of attention-grabbing sensory input writ large.

But the virtue of silence is not just defined by the absence of attention-grabbing sensory input. The virtue of silence is in how a person relates to what emerges from within that seeming absence, responding to the opportunity it offers: 'Silence provides us with the opportunity for learning about ourselves in relation to others' (Ehrenhaus, 1988: 45). Such learning is not just a matter of gathering more facts, but of taking on a different way of being. For the most part as humans, we live on autopilot, unquestioningly doing 'what one ought to do' because 'they say' we should do this or that and getting distracted amidst the chatter of everyday life – smartphone notifications, messages, to-do lists, political and celebrity gossip … This way of being is what Heidegger (2010) describes as the inauthentic mode of being. But silence, Heidegger writes, allows for the authentic self to take hold, answering the call from our own conscience to self-awareness. This call operates in silence and as silence. As Heidegger (2010: 263) writes, 'Conscience speaks solely and constantly in the mode of silence'. Without silence, we cannot hear the conscience speaking, which it does silently. For Heidegger, the call of conscience, if we are practised in hearing it, silences the chatter and brings us back to our authentic selves. This explains how we can experience silence even in the noisiest of places.

Even if silence always provides an opportunity for learning through authenticity, answering the call of silence is not a given. For this reason I think it is fruitful to think of silence as a virtue. As Aristotle writes in *Nicomachean Ethics* (II.1–2), virtues are not inborn but are built through practice and habit. The virtue of silence is built through the practice of hearing and answering the call of the conscience.

While imprisoned, Mandela had ample opportunity to practise answering this call. Much of his time in prison was spent in enforced silence;

even while working with his fellow prisoners, they were largely required to remain silent. Moreover, Mandela found himself in solitary confinement on many occasions, which he described as 'the most forbidding aspect of prison life' (Mandela, 1994: 416). He wrote:

> There is no end and no beginning; there is only one's own mind, which can begin to play tricks. Was that a dream or did it really happen? One begins to question everything. Did I make the right decision, was my sacrifice worth it? In solitary, there is no distraction from these haunting questions. (Mandela, 1994: 416)

The call of conscience cannot answer itself, and it takes practice to recognise and engage with it. As Garner (2020) discusses, many prisoners experience negative mental health; she describes this in terms of time management, but in the context of this section, we might describe it in terms of 'silence management'. Worldwide, the prevalence of mental health disorders is higher in the prison population than in the general population, as is the risk of all-cause mortality (Fazel et al., 2016). Of course, there may be many reasons for this (such as prison conditions, uncertainty, drug availability, mistreatment in prison, physical health), but in the context of this chapter, we can consider how prisoners engage with silence. Mandela evidently learned to do so successfully, through his practices of reading, writing and self-reflection. In *Long Walk to Freedom*, he recalls writing about his earlier years:

> I relived my experiences as I wrote about them. Those nights, as I wrote in silence, I could once again experience the sights and sounds of my youth in Qunu and Mqhekezweni; the excitement and fear of coming to Johannesburg; the tempests of the Youth League; the endless delays of the Treason Trial; the drama of Rivonia. It was like a waking dream and I attempted to transfer it to paper as simply and truthfully as I could. (Mandela, 1994: 477)

Mandela, evidently, came to hear the call of conscience by eventually engaging with silence. As he expressed in the words that open this chapter, 'If 27 years in prison have done anything to us, it was to use *the silence of solitude* to make us understand how precious words are' (Mandela, 2003: 402, emphasis mine).

It may be that silence is becoming rarer in today's world. Noise pollution is a growing problem in our cities – and increasingly in the countryside, too. The chief source of noise is transportation, but machinery, appliances and background media (for example, piped-in music) are also contributors. In the hurly-burly of modern life, we may not always notice the noise that envelopes us, but it became quite apparent during the 'global quieting' amidst the Covid-19 lockdown measures throughout 2020 (Wei-Haas, 2020). Noise is not merely an annoyance; to cite figures from the United States, noise results in hearing problems, from deafness to tinnitus, for a large percentage of the 1 in 10 Americans who are exposed daily to harmful levels of noise, and across the population it also damages the endocrine and nervous systems, leading to widespread sleep deprivation, fatigue, cognitive impairment and even aggression (Chepesiuk, 2005). But the noisiness of our world goes beyond mere sound. In his book *Silence: In the Age of Noise*, Kagge (2017) also connects digital distraction and constant motion as inhibitors of silence. Increasingly, it is becoming evident that these forms of noise can result in similar health and social issues.

Two authors have discussed silence as an issue in information ethics, however briefly. Floridi (2013) describes unwanted noise as an assault on our right to not be exposed to information, informational privacy. He writes, 'Silence is hugely undervalued in our world' (Floridi, 2013: 257). It may be that we have such a right, and activist organisations are beginning to champion it, such as Noise Free America in the United States and Right to Quiet Society in Canada. But it may be that our information environment is inherently noisy; Capurro (1996) describes information technologies as inherently loquacious. In the face of them, he says, we must learn 'the art of silence'. For Capurro, like Heidegger, learning the art of silence involves recognising one's own voice and the fact that one is finite, and taking responsibility for one's information.

So how might we uncover more opportunities to build the virtue of silence? In an increasingly secular world, our spiritual traditions may be fruitfully construed not as witnesses to the supernatural, but as stewards of nourishing silence. Silent meditation retreats, often in a Buddhist context, are increasingly popular, and large churches are tourist destinations specifically for their silence (Kauppinen-Räisänen et al., 2019). Also, art-making and art-viewing provide similar opportunities. Information organisations, such as libraries and museums, should take advantage

of offering spaces for silence, seeing as silence falls within the rubric of information, which they readily provide (Gorichanaz and Latham, 2019).

COMPELLED SILENCE

An uncomfortable truth about silence is that it is not always cultivated voluntarily but is sometimes imposed. Certainly imprisoning political dissenters is an example of such compelled silence. Beyond such extreme physical silencing, compelled silence may also manifest in interpersonal relations and cultural pressure, however subtle (Star and Bowker, 2007). Compelled silence is a form of exerting control over dissidents in all realms of life, from the conference room to the public sphere, one that has been used against views of all stripes, from minority to majority, left to right. For those who focus on such circumstances, silence may appear not as a virtue but as a vice.

Compelled silence may indeed manifest as an absence of sound, and this may be unjust, but this is not reason enough to be sceptical of the virtue of silence *tout court*. As I described above it is not the absence of sound that makes silence grounds for virtue. After all, for a person forbidden from speaking, the absence of sound may not be experienced as the call of conscience, but rather as noise – an affront.

Whether imposed or undertaken voluntarily, silence is often difficult to engage with in a meaningful, constructive way – and perhaps it is more difficult with compelled silence. But Mandela shows us that doing so is possible. He wrote in a letter, perhaps referring to the Stoic teaching, that though we cannot choose our circumstances we can choose our response to our circumstances:

> It has been said a thousand and one times that what matters is not so much what happens to a person than the way such person takes it …
> Yet whenever it is my turn to be the victim of some misfortune, I forget precisely these simple things, and thereby let hell break loose upon me. (Mandela, 2010: 194)

In a parallel-universe Mandela might have let this hell fester, but our Mandela did not. As went his refrain, 'a saint is a sinner who keeps on trying' (Mandela, 2010: 212, 410). I fear that many people, less attentive

to these dynamics, are swept up in the noise of would-be silence and never cultivate it as a virtue.

Perhaps because of the dark realities of compelled silence, some contemporary activists seem to overlook any virtues that silence might have. 'Silence Is Violence' and 'Silence Is Compliance' read some of the picket signs and social media memes that circulated abundantly amidst the US racial unrest in summer 2020. However virtuous they might appear, shrouded in aphorism, such messages conceal an acerbic vice: rather than encouraging people to answer the call of conscience and respond to silence authentically, these messages ask people to bring on the noise. Put more plainly, these responses to compelled silence are themselves attempts at compelled speech.

What we can learn from Mandela is that, on the contrary, we do not engage with the virtue of silence by filling it with noise, but rather by engaging with the call of conscience that emerges through it.

PAUSING IN SILENCE

Closely related to silence, and I would say part of silence, is pausing. To pause means to stop briefly, or to follow an interruption. This cessation of an activity opens the space for one to introduce reflective distance: between different facets of oneself, between who one was and who one is, and between who one is and who one might become. In a study of creative thinking among scholars, Anderson (2013) writes of pausing as the ground for an upswell of information. For her, pausing is about refreshing oneself and finding time and space to think, particularly in terms of self-reflection.

A pause is, in the first place, an interruption. When he was imprisoned, the major substance of Mandela's life was interrupted. All of us experience interruptions on a regular basis, albeit typically much smaller ones. Rare are those truly disruptive interruptions, what author Bruce Feiler (2020) has called 'lifequakes'. And while in everyday parlance we assume interruptions are negative, there are many cases in which interruption can be fruitful. Consider Plato's *Republic*, a cornerstone of Western philosophy: the entire dialogue is framed as an interruption, and its internal structure hinges around several key interruptions between the interlocutors (Bates, 2016). Something similar could be said about the Hindu epic *Mahabharata*, an

anchor of Eastern philosophy. This suggests that there may be something philosophical about interruption. In fact, Plato's 'Allegory of the Cave' in the *Republic* seems to suggest that all learning is a matter of turning around, of being interrupted.

Taking this further, in a philosophical study of interruption, Michael Hyde (2018) writes that *nothing* happens without interruption, from the creation of the world to any human project. On Hyde's account, interruption has a questioning nature, one that invites us to consider matters outside ourselves as we attempt to move forward in life. Early in the book he cites advice from C.S. Lewis: 'The great thing, if one can, is to stop regarding all the unpleasant things as interruptions of one's "own" or "real" life' (Lewis, as cited in Hyde, 2018: 3). For Hyde, the essential thing is not that we get interrupted, but to realise that we just are interruptions.

However much interruptions may be cause for anxiety, they give us an opportunity to step away from ourselves and think, as Anderson (2013) writes. The interruption of a pause may be informational in this way, as it gives us a chance to piece together the information we have already encountered. In other words, an interruption, if we let it, can give us time to think. Mandela said as much in a 1998 BBC interview, where he commented that he sometimes missed prison for that reason. He said, 'There is a lot that I miss in my life in prison because there you could sit down and stand away from yourself and look at your track record and be able to discover the mistakes that were made' (Associated Press, 1998).

This dynamic may be termed 'critical reflection'. This is the deliberate disambiguation, articulation and questioning of one's assumptions and beliefs – which arguably is only possible in the pause of silence. According to education researcher Stephen Brookfield (2008), Mandela's *Long Walk to Freedom* 'represents a rich case study of critical reflection in action, with particular resonance for popular adult education and theoretical work on the pedagogy of ethical coercion' (Brookfield, 2008: 108).

SILENCE, PAUSE AND LISTENING TODAY

In this chapter, I have considered Mandela as an infomoral exemplar, particularly in how he practiced the virtue of silence. Silence provides the grounds for listening to the call of conscience – for listening to oneself as much as to others – and it spreads out in the interruption of a pause.

As we have seen, for Mandela, being in prison gave him 'time to think'. If prison offers opportunities to practice leveraging silence and pause, the great challenge for a freed person – as Mandela discovered – is to keep up these habits even outside prison. But it is possible: One may recall Marcus Aurelius, whose meditations have something of the quality of Mandela's letters published in *Conversations with Myself*; but whereas Mandela's letters were written in the solitude of prison, Marcus Aurelius's were written during the tumultuous life of a Roman emperor. In any case, the vast majority of us won't ever be prisoners or emperors in our lives, so what opportunities might there be for us to practice using these resources? What's more, today's information climate seems to give us 'no time to think', to quote the title of a paper on this theme by David Levy (2007). As we inhabit the infosphere more and more, we may find it increasingly difficult to discover and cultivate silence.

As far as actual tactics for cultivating silence, the exemplar of Mandela suggests that we might carve out sacred time in our lives, insomuch as it is possible, for reading, journaling and letter-writing, perhaps preferably on paper rather than the screen (see Gorichanaz, 2020, chapter 8). But of course, this 'has been said a thousand and one times,' to quote Mandela (2010: 194) again. The trouble is putting this advice into practice in our lives.

Philosopher Hannah Gunn (2019) writes of the difficulty of listening online. She defines 'listening' broadly as the epistemic method of acquiring testimonial knowledge. As she writes, the promise of Google (and metonymically, online search writ large) was to make us all better listeners by way of removing many of the constraints of good listening, mostly regarding internet access. And yet we now seem to be worse listeners than before. Gunn argues that we all have epistemic duties to build ourselves into more virtuous information seekers and users. She makes particular reference to the virtue of intellectual humility, which functions to keep us open to the possibility that we might be wrong. But she does not hint at how we might go about this building. Moreover, she seems only to look for answers at the level of individual psychology and behaviour, rather than looking also at technology design and other infrastructural issues. Surely we would do well to better understand intellectual humility and uncover paths to improve our intellectual humility, especially vis a vis information seeking and use (see Gorichanaz, 2021), but based on the discussion in this

chapter on the life of Mandela, silence is an additional virtue that may be cultivated to help us become better listeners, both online and off. It is in the reflective, interruptive space of silence that we may indeed discover 'how precious words are'.

CONCLUSION

This chapter has framed Nelson Mandela as an infomoral exemplar, a figure who we admire and may seek to emulate because of his perspicacity and behaviour regarding questions of interest to the world of information. I have suggested that one of Mandela's foremost virtues contributing to his being an exemplar is silence, how he managed 'to use the silence of solitude to … understand how precious words are and how real speech is in its impact on the way people live and die' (Mandela, 2003: 402).

The phrase 'talk is cheap', in use since at least the 19th century, refers to the frequent disconnect between people's promises and their actions. But Mandela's quotation here helps us see a deeper meaning to this phrase: that most of the time we do not realise how *precious* – how valuable, how dear – words are. Speaking of this human tendency, Heidegger said in a lecture course: 'Words are constantly thrown around on the cheap, and in that process are worn out. There is a curious advantage in that. With a worn-out language everybody can talk about everything' (Heidegger, 1968: 127). The cheaper our words, the closer 'talking about everything' comes to 'talking about nothing'. And so today, in an era when the writer in each of us has been given free reign, the cliche 'talk is cheap' becomes ever more inadequate to describe our situation.

If Heidegger pointed out the everyday cheapness of our language and Mandela recognised that we can recover its preciousness, it was Georges Gusdorf who wrote of our obligation to do so: 'It is up to each person to assume the responsibility for their own language by searching for the *right word*' (Gusdorf, 1979: 44). Understood in the context of this chapter, one path to fulfilling this obligation is to engage purposefully with the virtue of silence.

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Towards an internet ombudsman institution
On the creation of the position of internet ombudsman in charge of assessing the legal or illegal nature of internet contents through screening procedures[1]

Adv. Dan Shefet

INTRODUCTION

THE RATIONALE FOR ADDRESSING THE TOPIC OF THE CREATION OF THE INTERNET OMBUDSMAN INSTITUTION IN CHARGE OF ASSESSING THE LEGAL OR ILLEGAL NATURE OF INTERNET CONTENT

The controversy surrounding Facebook after the Cambridge Analytica revelations is only the latest example of the growing awareness of the need to establish some sort of liability on 'intermediaries' for hurtful content disseminated via their infrastructure (C-Span, 2018).

During his testimony before the Senate on 10 April 2018 (ibid.), Mark Zuckerberg affirmed several times that Facebook was '*responsible for the*

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1   This report was commissioned and funded by the Parliamentary Assembly of the Council of Europe (PACE) in the framework of preparation of the PACE report on 'Towards an Internet Ombudsman Institution' (Rapporteur for the PACE Committee on Culture, Science, Education and Media: Mr. Frédéric Reiss, France, Group of the European People's Party) which was adopted by the Standing Committee, acting on behalf of the Parliamentary Assembly, on 15 September 2020. References: PACE Resolution 2334 (2020): https://pace.coe.int/en/files/28728. Committee report on 'Towards an Internet Ombudsman Institution': https://pace.coe.int/en/files/28321#trace-2

content' on its platform, even though the company does not '*produce the content'*, perhaps signalling a general shift in the industry's viewpoint on this critical issue. Another recent example of increased IP liability in the United States of America is the Stop Enabling Sex Traffickers Act (SESTA).[2]

As we shall see later in this chapter, national laws have reflected this increasingly restrictive and regulatory approach towards IPs in general and in particular with regard to content liability.

However, there is also wide consensus that certain categories of content regulation are vague. The 'Right to be forgotten' (ECJ, 13 May 2014 codified in Article 17 of the General Data Protection Regulation (GDPR)) is such

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2   Available at: https://www.congress.gov/bill/115th-congress/house-bill/1865/text. In Europe, an early example of a move towards IP liability is the Decision No. 276/1999/EC of the European Parliament and of the Council of 25 January 1999 adopting a multiannual community action plan on promoting safer use of the internet by combating illegal and harmful content on global networks (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31999D0276).

   The European Commission met with representatives of IPs on 9 January 2018 to control the spread of illegal content online (http://europa.eu/rapid/press-release_IP-18-261_en.htm), including terrorist propaganda and xenophobic, racist hate speech as well as breaches of intellectual property rights (at the international level, the United Nations had already called for a certain degree of IP liability for content in its '*Guiding Principles on Business and Human Rights*' (Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy Framework' (2011)), Human Rights Council (A/HRC/17/31) and at the RightsCon 2015, UNESCO presented a publication on the role of internet intermediaries (R. MacKinnon, E. Hickok, A. Bar, H. Lim: '*Fostering Freedom Online: The Role of Internet Intermediaries*', UNESCO, Internet Society, 2014)).

   The latest initiatives from the Committee of Ministers of the Council of Europe go in the same direction: Recommendation on 7 March 2018 on "the roles and responsibilities of internet intermediaries' (Recommendation CM/Rec(2018)2) and the EU Commission Communication to the European Parliament of 28 September 2017 on 'towards an enhanced responsibility of online platforms' constitute the logical further development of their initiative which includes a reference to the 'Good Samaritan clause' in Article 10(6) (https://ec.europa.eu/transparency/regdoc/rep/1/2017/EN/COM-2017-555-F1-EN-MAIN-PART-1.PDF) leading up to the EU Commission Recommendation on 1 March 2018 on "measures to effectively tackle illegal content online' (https://ec.europa.eu/digital-single-market/en/news/commission-recommendation-measures-effectively-tackleillegal-content-online).

   The OESC has made similar statements on intermediary liability (https://www.osce.org/fom/338036?download=true), like the OECD (Privacy Framework 2013, Article 14), and finally, the IPs themselves have adopted "Community Guidelines'. At the same time, we have witnessed important developments in case law before the European Court of Human Rights. Thus, the *Delfi v. Estonia* case in principle allows platform liability for third party content (European Court of Human Rights, Grand Chamber, 16 June 2015, *Delfi AS v. Estonia*, Case No. 64569/09).

an example. Article 17 uses language like: '*no longer necessary*', '*unlawfully processed*' balanced against '*freedom of expression*') (Bertram et al., 2015).

Other grounds to request deletion or dereferencing may likewise create uncertainty and give rise to difficult judgment calls. This is the case for instance for hate speech[3] or defamatory content. IPs may find it difficult in good faith to determine whether the disputed content is illicit.

Some argue for a general monitoring obligation on IPs. However, IPs cannot be subjected to such a general obligation under Article 15 of the

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3   Hate speech is not clearly defined in law and even carries different names. The difficulty is compounded by international law requirements. For example, the International Covenant on Civil and Political Rights (1966), Article 20(2) imposes a specific obligation upon States to prohibit speech conceived as '*any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence*'.

The International Convention on the Elimination of All Forms of Racial Discrimination (1965) stipulates at its Article 4(a): '*Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination [...];*'

Moreover, the 'Additional Protocol to the Convention on Cybercrime, concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems' (2013) stipulates:

'*Article 4 – Racist and xenophobic motivated threat [...] threatening, through a computer system, with the commission of a serious criminal offence [...].*'*Article 5 – Racist and xenophobic motivated insult [...] insulting publicly, through a computer system, (i) persons for the reason that they belong to a group distinguished by race, color, descent or national or ethnic origin [...]*'

'*Article 6 – [...] distributing or otherwise making available, through a computer system to the public, material which denies, grossly minimizes, approves or justifies acts constituting genocide or crimes against humanity* [...].'

The Convention on the Prevention and Punishment of the Crime of Genocide (1948), Article 3 stipulates: '*The following acts shall be punishable: (c) Direct and public incitement to commit genocide*'.

The Rome Statute of the International Criminal Court (2002) also deals with the crime of genocide:

'*Article 18*

[...] (e) In respect of the crime of genocide, directly and publicly incites others to commit genocide [...]

The International Law Commission's Draft Code of Crimes against the Peace and Security of Mankind with commentaries (1996) stipulates at Article 2 on Individual responsibility: *[...] 3. An individual shall be responsible for a crime set out in article 17, 18, 19 or 20 if that individual: (a) Intentionally commits such a crime; [...] (f) Directly and publicly incites another individual to commit such a crime which in fact occurs*'. The difficulties in assessing legality of 'Hate Speech' are clearly demonstrated by the *Nahimana* case (ICTR, 8 November 2007, (Media case), ICTR-99-52) and *Seselj* case (ICTY, 11 April 2018, IT-03-67) as well as the *Streicher* and *Fritzsche* cases (Nuremberg IMT, 1 October 1946). Terms like 'dangerous speech', 'incitement', 'instigation' or 'persecution' are open to interpretation. Much of the difficulty resides in the fact that these offences are not generally viewed as inchoate, but that an element of causation is arguably included. They may not entirely constitute 'speech acts' (J.L. Austin).

e-commerce Directive.[4]

The opposing side of the regulatory spectrum is of course the desire to protect freedom of speech.[5]

The right to offend, shock or disturb must however be protected.[6]

It is not easy for IPs to determine legality, i.e. the notions constituting the offence and the exceptions that may apply (this problem also arises in intellectual property law but here the notions are less vague). The difficulty is compounded by notions like 'necessity' and 'proportionality'.

Against this background of increased regulation and the ever-growing need for guidance and clarity with regard to the assessment of online content and in recognition of the proportionally growing threat to free speech, Member of the Parliamentary Assembly of the Council of Europe, Mr André Reichardt presented in January 2017 a Motion for a Recommendation inviting the Council to initiate the creation of an 'Internet Ombudsman' (Reichardt, 2017).[7]

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4   The case *SABAM v. Netlog* (ECJ, Third Chamber, 16 February 2012, *Belgische Vereniging van Auteurs, Componisten en Uitgevers CVBA v Netlog NV*, Case C-360/10) and the recent German Federal Court of Justice case where the court held that a search engine operator had to act only after being notified of a clearly recognisable violation ('manifestly illicit') of individual's rights. The Court rejected the idea of imposing a general monitoring obligation on IPs (*Bundesgerichtshof*, 27 February 2018).

5   International instruments protecting free speech cover most countries around the world. The central instrument is the 'International Covenant on Civil and Political Rights' (ICCPR) of 16 December 1966: Article 19(2) provides:
    '*2. Everyone shall have the right to freedom of expression […];*
    3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
    (a) For respect of the rights or reputations of others;
    (b) For the protection of national security or of public order ('ordre public'), or of public health or morals.'
    Limitations of Freedom of speech in Article 19(3) are also enunciated in the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (ECPHR), Article 17: '*Prohibition of abuse of rights: Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.*'
    In addition, we find similar vague wording in Convention 108 and the OECD Guidelines on Data Privacy.

6   ECHR, 7 December 1976, *Handyside v. the United Kingdom*.
    The difficulty is compounded by notions of 'necessity' and 'proportionality' with regards to restrictions of free speech.

7   This motion was based on a French Bill presented by the Senator, Ms Nathalie Goulet

Indeed, the international, domestic and EU regulations sanctioned by heavy penalties pose challenges to both the principles of legality as embodied in Article 7 of the ECPHR[8] and to freedom of speech in Article 10 and Article 11 of the Charter of Fundamental Rights of the European Union[9] and it is essential to develop new institutions which may allow these often conflicting rights to coexist in cyberspace.

This chapter serves as a basis for a final report on the creation of the Internet Ombudsman institution in charge of assessing the legal or illegal nature of internet content.

THE SCOPE AND OBJECTIVES OF THE REPORT

This chapter addresses the creation of an Internet Ombudsman in each member State. This institution would be in charge of assessing the legal or illegal nature of internet content through a Content Qualification Assessment Procedure at the request of the IP concerned. In other words, this independent body would provide the necessary guidance to IPs with regard to notices submitted to them in case of doubt in good faith concerning the legality of such content accessible on their infrastructure.

The chapter defines the purpose and provides the scope of the 'Content Qualification Assessment Procedure' on which the Internet Ombudsman would base its opinion.

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before the French Senate on 25 November 2016 drafted in conjunction with the author of this report. Member of the Parliamentary Assembly of the Council of Europe, Mr Frédéric Reiss has been designated as rapporteur drafting a report on the 'Creation of an Internet Ombudsman in charge of assessing the legal or illegal nature of internet content through screening procedures', available at: AS/Cult (2017) CB 02 27 March 2017: http://www.assembly.coe.int/committee/CULT/2017/CULT002E.pdf.

8   The same principle is enshrined in other legal instruments e.g. the Rome Statute of the International Criminal Court (2002) provides: '*Article 22 – Nullum crimen sine lege 1. A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court.*

   2. The definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted.

   3. This article shall not affect the characterization of any conduct as criminal under international law independently of this Statute.

9   Charter of Fundamental Rights of the European Union (2012/C 326/02): '*Freedom of expression and information 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. 2. The freedom and pluralism of the media shall be respected.*'

The chapter explains how the procedure is to be used by IPs when they are faced with a takedown notice and seek guidance as to the legal qualification of the impugned content given that the IP exposes itself to sanctions for non-compliance.

CONTEXT AND ARGUMENTS FOR CREATING AN INTERNET OMBUDSMAN INSTITUTION

In addition to the above regulatory and jurisprudential developments the general context should also take into account that to a certain extent such regulation tends to constitute delegation to the private sector of public law enforcement.[10]

LEGAL ASPECTS

Adopting laws regarding legal responsibility of infrastructure providers: advantages and disadvantages

German legal framework

The latest example of laws imposing IP liability for content is the influential Network Enforcement Act (*The Netzwerkdurchsetzungsgesetz* or '*NetzDG*'), the execution of which commenced on 1 January 2018.[11]

IPs may refer the assessment of the unlawfulness of the content to 'self-regulation institutions' ('*regulierte selbstregulierung*'). These institutions

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10 The justification of delegation of public enforcement to private parties is typically based on below theories:

    the least cost avoider theory,

    the common carrier theory,

    the unique technological capabilities under IPs control,

    the theory that infrastructure providers have a de facto gatekeeper role,

    diligence based on fiduciary duties.

11 The Act establishes an enhanced intermediary liability regime with substantial penalties. It imposes upon IPs an obligation to remove content which is 'manifestly unlawful' ('*offensichtlich rechtswidrigen Inhalt*') within 24 hours and within 7 days 'unlawful content' ('*Inhalt rechtswidrig*'). The Act refers to offences under the German Criminal Code, such as the prohibition of defamation of religion, hate speech and defamation of character. In case of non-compliance with the above obligations, severe administrative penalties of up to 50 million euros apply for social networks having more than 2 million registered users in the Federal Republic of Germany (Section 1(2) of the Act; Section 4(2) of the Act and Section 30(2) sentence 3 of the Act on Regulatory Offences of 19 February 1987 ('*Gesetz* über *Ordnungswidrigkeiten*')).

will review the content and render a decision which the intermediary must comply with. So far, no such institutions have been approved. The self-regulatory functions would be contingent on a 'systemic approach'.[12]

It may be observed that the German legislative framework arguably shifts the powers/obligations to censor content from the public sector to the private sector.

Concerns of over-blocking or 'collateral filtering' have been raised as a consequence since IPs are left to make the – often difficult – judgement call[13].

French draft law

The French Minister of Culture, Françoise Nyssen, announced a Bill on fake news at a press conference on 13 February 2018 (Le Figaro, 2018).

The law will most likely impose new responsibilities on IPs obliging them to be transparent about their sponsored content.[14]

A judicial procedure based on the '*référé*' (fast track procedure) would allow any interested party direct judicial recourse against an IP in view of obtaining expeditious removal blocking the impugned content when it is being 'massively' and 'artificially' disseminated.[15]

Other European draft laws

As mentioned in the introductory remarks of this chapter, the Ministers of the Member States of the Council of Europe have drafted guidelines on actions with regard to the roles and responsibilities of IPs.

It is a legitimate assumption that other European countries will enact

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12 '*Systemische Betrachtungsweis*' and '*Systemisches Versagen*', NetzDG *Bussgeldleitlinien* 22 March 2018, 62, p. 7.

13 The author has obtained the following information regarding the first 100 days of enforcement of the Act: 253 complaints regarding content have been received. In addition, the office under the Ministry of Justice has commenced *ex officio* investigations bringing the total number up to approximately 300 cases. Five complaints have been received by IPs. Most of the cases deal with insults, defamation, hate speech and holocaust insignia (http://www.spiegel.de/netzwelt/ netzpolitik/100-tage-netzwerkdurchsetzungsgesetz-besuch-im-bundesministerium-fuer-justiz-a-1202836.html).

14 This latter point seems to be inspired by the Honest Ads Act introduced by US senators Mark Warner, Amy Klobuchar and John McCain on 19 October 2017 to promote regulation of campaign advertisements online. Available at: https://www.congress.gov/bill/115th-congress/senate-bill/1989/text.

15 These references imply virality and the use of bots.

similar content regulation legislation in the following months.[16]

Potential application of media laws to the internet: Pros and cons

The question has been raised several times over the years whether media law as such should apply to the internet and IPs.

Media laws in most countries contain strict liability rules on content, providing for personal, penal and civil sanctions against editors and directors of newspapers, broadcasters, etc. (French Media Law, 1990). These laws impose sanctions on the basis of vicarious or secondary liability which is rarely found in other areas of law. The dynamics of the internet as it has converged with classic media functionality increasingly causes the principles of content liability as developed under media law to be advocated in litigation and in policy debates around the world and stresses the importance of clear definitions of 'the editor' and 'the publisher' of content online.

During the second day of testimony on Capitol Hill, Mark Zuckerberg responded to a question from Congressman Costello from Pennsylvania ('*Is Facebook, in utilizing that platform, ever a publisher in your mind? As the term is legally used.*') (C-Span, 2018) in terms that left the subject still undecided, but went much in the direction of the affirmative.

The inherent difficulties of a direct transposition of the liability structure of media law to the internet, however, resides in the fact that content is generated by third parties and not by the IP themselves.

It seems that it would be preferable to develop a *sui generis* legal framework for IPs and not apply media law directly.

American approach of 'absolute immunity' of internet intermediaries vs. European approach of 'relative immunity'

Traditionally, companies like Google, Twitter, Facebook, etc. are viewed as 'mere conduits' of content, hence privileged under the Safe Harbor Rules (which exclude accountability for content) in the Communications

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16   Other countries are also considering taking legal measures against social media for repeated failure to act when confronted with a request to remove online content inciting or supporting terrorism, for instance Israel and Singapore. More information is available at: https://www.bloomberg.com/news/articles/2018-03-20/israel-warns-twitter-of-legal-steps-over-incitement-to-terrorism.

Decency Act in the United States (1996),[17] the e–Commerce Directive[18] in the European Union as well as a number of national laws.

In general terms one may characterise the American approach as 'absolute immunity' and the European as 'relative immunity'.[19]

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17   The Communications Decency Act enacted by US Congress on 1 February 1996 reads at Section 203 '*No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.*'

18   Directive 2000/31 on electronic commerce (June 8th, 2000):

'*(40) […]; service providers have a duty to act, under certain circumstances, with a view to preventing or stopping illegal activities;* […].

(43) A service provider can benefit from the exemptions for 'mere conduit' and for 'caching' when he is in no way involved with the information transmitted. […].

(46) In order to benefit from a limitation of liability, the provider of an information society service, consisting of the storage of information, upon obtaining actual knowledge or awareness of illegal activities has to act expeditiously to remove or to disable access to the information concerned; the removal or disabling of access has to be undertaken in the observance of the principle of freedom of expression and of procedures established for this purpose at national level;

(48) This Directive does not affect the possibility for Member States of requiring service providers, who host information provided by recipients of their service to apply duties of care, which can reasonably be expected from them and which are specified by national law, in order to detect and prevent certain types of illegal activities. […].

Article 14 – Hosting

1. Where an information society service is provided that consists of the storage of information provided by a recipient of the service, Member States shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that:

(a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent; or

(b) the provider, upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information. […]'

19   In the original transposition of the Directive the French Constitutional Council and the German Federal Court of Justice (*Conseil Constitutionnel*, 10 June 2004, Decision No. 2004–496 DC; *Bundesgerichtshof*, 27 February 2018) imposed a reference to 'manifestly illicit content'. The IP would not be automatically liable for illicit content unless its illicit nature is 'manifest' (except for terrorism, etc.). The directive does not specify sanctions (civil and/or penal) and from which point in time they accrue (i.e., from receipt of the notice or the judgment on the illicit nature of the content). Under French law, pursuant to Article 6-I-2 of the law on confidence in the digital economy (*Loi pour la confiance dans l'économie numérique*, or '*LCEN*'), to avoid liability, IPs must, from the moment they acquire knowledge of the unlawful nature of the content they host on their platform, act promptly to withdraw it or bar access to it if it is considered manifestly illicit (pursuant to Article 6-I-2 of the Law, certain content is deemed 'manifestly illicit' per se: apology of crimes against humanity, incitement to racial hatred, hatred of persons on the grounds of their sex, sexual orientation, gender identity or disability, child pornography, the provocation to the commission of acts of terrorism and their apology, incitement to violence, including incitement to violence against women, as well as attacks on human dignity. An example of the difficulty is the case of the Paris Court of Appeal (8 November 2006) 'Committee for the Defense of the Armenian

It must be observed that the e-commerce directive has an ambiguous immunity scope and that it does not employ the term 'manifestly illicit'. A study conducted by the European Parliament's Directorate General for Internal Policies in 2017 already called upon the need to clarify the reach of immunity.[20]

PRACTICAL ASPECTS

Potential advantages for the public (including the victims of presumably illegal content)

Access to justice and the right to an effective remedy are crucial principles and constitute the core of democracy.[21]

Late justice is no justice and the harm done by dissemination of content on the internet may quickly become irreversible.

The Internet Ombudsman institution represents clear advantages for the public in that it will expedite the handling of judgement calls.

The review procedure would guarantee a faster way to remove contentious content directly harming an individual or a group of individuals or the public overall while at the same time prevent over-blocking.

It would ensure that effective protection against hurtful content be achieved on an egalitarian basis as opposed to present-day reputation techniques which may be extremely costly (search engine optimisation, for instance).

The stifling effect of the internet 'never forgiving' may also impact artistic expression. History abounds with examples of artists fulfilling their indispensable role in democracy by provoking change. Artistic expression is almost by definition not 'politically correct'. An effective means of deleting content which could later cause harm to such artists in terms of funding, access to media and other reputational risks is critical to true democratic discourse.[22]

Cause', the judges considered that contents challenging the existence of the Armenian Genocide were not manifestly illicit). The same is the case for German law as we have seen earlier in this chapter.

20   Directorate-General for Internal Policies, Providers Liability: From the eCommerce Directive to the future (2017), in Depth analysis for the IMCO Committee.

21   European legislation must under the Lisbon Treaty (2007) Article 19 be 'effective'.

22   To a certain extent we find this idea of protecting good faith embodied in the French law allowing a so-called '*droit à l'erreur*' (*Projet de loi pour un Etat au service d'une société de confiance, n° 424*).

Potential advantages for social media

Currently, users flag/report content to the platform which they deem illegal or in breach of its policies or community guidelines after which the platform's staff (sometimes subcontracted) reviews the content and decides whether or not to remove it. Users report to NGOs, e.g. Internet Watch Foundation (IWF) in the UK (or the '*internet-beschwerdestelle*' in Germany) or to government agencies like Pharos in France or directly to law enforcement.

In addition, IPs increasingly employ techniques like artificial intelligence to intercept illicit content features.

The final decision as to legality can, however, be extremely difficult to reach. Some cases involving hate speech, for example, even go before the United Nations Human Rights Committee on the basis of Article 19 and 20(2) of the International Covenant on Civil and Political Rights (prohibiting advocacy of incitement to religious hatred and discrimination)[23] and some are brought before the European Court of Human Rights.[24]

With the entry into force of the GDPR (25 of May 2018) the ambit of difficult judgement calls will be substantially increased, and their importance highlighted by significant penalties of up to 4% of turnover (*infra* under 4.5).

The Internet Ombudsman institution would represent an advantage for IPs, particularly for social media, considering that they would be able to apply to this institution in cases where they may lack the necessary legal expertise to make an informed decision in relation to specific requests for removal or blocking (in particular start-ups). In this case, the IP concerned may initiate the procedure by submitting a request for an assessment of the content before the Internet Ombudsman. The latter delivers an assessment on its qualification in the form of an opinion (not a binding decision).

The IP would be free to choose to follow this opinion.

Acting in accordance with the opinion would relieve the IP from any

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23 UN Human Rights Committee, 18 November 2016, *Rabbae v. Netherlands*, Communication No. 2124/2011.

Article 20(2) of the ICCPR provides: '*Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*'

This was for instance the case for the *Loi Gayssot* on negationism (Law No. 90-615) enacted on 13 July 1990. Such 'communication' presupposes adherence to the Optional Protocol and therefore does not reflect the position of all signatory States.

24 A list of ECHR cases on hate speech is provided in the following fact sheet: https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf.

future penal or civil sanctions including claims made by victims, authors, editors, publishers or any other party relative to the specific content covered by the opinion.

The opinion would not limit recourse against the author, editors or publishers.

Summing up: an Internet Ombudsman to hold accountable social media without sacrificing free speech

Nearly four years on from the landmark 'Right to be Fforgotten' ruling,[25] questions and difficulties still accompany this right and other content restrictions.

When processing requests for removal or dereferencing, IPs do not always possess the legal skills to identify whether content is illicit or not.

The vagueness of many concepts used in the penalisation of content may be exemplified by 'hate speech' which is sometimes defined as an inchoate crime and sometimes contains an element of causation (just to mention one difficulty). This judgement call is extremely difficult even for trained international judges.

PROBABLE CHALLENGES IN THE PROCESS OF SETTING-UP AN INTERNET OMBUDSMAN INSTITUTION

Jurisdiction regarding the internet: legal and practical clash between 'splinternet' and universal internet

There are three main schools of thought on the issue of territorial reach of content regulation. Jurisdiction is typically divided into:

- legislative authority
- adjudicatory authority
- enforcement

The first school of thought subscribes to the idea that the internet is a maze of national or regional laws (*The Economist*, 2016) and that cyberspace is a mere extension of the sovereign State and therefore subject to the State's laws and regulations.

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25   ECJ, Grand Chamber, 13 May 2014, *Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, Case C131/12.

The second school is the one represented by the European Union, which promotes extraterritorial reach.[26]

The third school advocates an internet governed by no other laws than its own (the theory of universalism).

The Internet Ombudsman would not currently solve these jurisdictional clashes given the diverse legal and cultural traditions and the sensitivity of content regulation.

DIFFERENCES BETWEEN VARIOUS NATIONAL LEGAL SYSTEMS VIS A VIS UNIVERSALITY OF THE INTERNET

China in particular has adopted a legislative policy of strict extension of State sovereignty to cyberspace.

The trend around the world seems to move in the same direction. The only country that seems to advocate universality is the United States of America, but even here the recent *Equustek* case in Canada[27] has not obtained global reach in the US. This appears to be in contradiction with the Cloud Act signed into law on 23 March 2018.[28]

As far as the European position is concerned we await the ECJ's prejudicial ruling on the request submitted by the *Conseil d'Etat* (highest administrative court in France) in the matter *Google v. CNIL*.[29]

This case will have a major impact on the future delimitation of national jurisdiction and extraterritorial effect.

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26 In May 2017, an Austrian Court of Appeal (Court of Appeals, 5 May 2017, *Die Grünen v. Facebook Ireland Limited*, Case No. 5 R 5/17t.) ordered Facebook to take down specific posts about the country's Green party leader which were considered hateful. The order concerned not only Facebook's extension in Austria but worldwide. The case has been brought before the Supreme Court of Austria (*Oberste Gerichtshof* – OGH, 25 October 2017, Case No. 6Ob116/17) which has referred the issue to the European Court of Justice for clarification on the extraterritorial reach of an order requiring a hosting provider to remove illegal information.

France's highest court in administrative matters, the *Conseil d'Etat* (19 July 2017, *Google Inc.*, Case No. 399922), referred a question on the extraterritorial reach of the Right to be Forgotten to the European Court of Justice. In the dispute, the French Data Protection Agency, the CNIL, argues that the Right to be Forgotten requires Google to delist links containing personal information about an individual deemed inaccurate or irrelevant on a global scale, meaning on all Google's domains.

27 Supreme Court of Canada, 28 June 2017, *Google Inc. v Equustek Solutions Inc.*, Case No. 36602 [2017 SCC 34].

28 The Clarifying Lawful Overseas Use of Data Act (H.R.4943).

29 ECJ, Request for a preliminary ruling from the *Conseil d'Etat* lodged on 21 August 2017, *Google Inc. v Commission nationale de l'information et des libertés (CNIL)*, Case C–507/17.

The challenge of quantity: How to manage the (probable) enormous number of complaints regarding the (potentially) illegal nature of internet contents

It may be assumed that the availability of obtaining an authoritative content qualification will give rise to a substantial number of requests at least in the beginning and that some of those requests may be abusive.

Article 12(5)[30] of the GDPR dealing with abusive requests made by data subjects could serve as the basis for similar sanctions against IPs submitting requests for opinions from the Internet Ombudsman in bad faith.

In addition, over time the Internet Ombudsman will most likely be able to establish a certain level of categorisation of requests and content types. This could be facilitated by cooperation between Internet Ombudsmen in different states (retaining however the specificities of national law).

One may also contemplate a pre-screening and centralised approach along the line of the IWF[31] in the United Kingdom, Pharos[32] in France or the '*internet-beschwerdestelle*' in Germany.

This would necessarily restrict the remit of the Internet Ombudsman to oversight with regard to notices made by these pre-screening agencies (which may include NGOs). During the initial phases of the Internet Ombudsman's activities it may be wise to limit requests for qualification assessment made by IPs to notices made by such agencies.

It may likewise be opportune during such an initial phase to limit the ambit of assessment qualifications to manifestly illicit content. As we have seen, this is the area where infringement may lead to penal and civil sanctions immediately while 'merely' illicit content only gives rise to liability after a court judgment has qualified it as such. The risk of over-blocking is therefore primarily within the category of manifestly illicit content.

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30 '*5. Information provided under Articles 13 and 14 and any communication and any actions taken under Articles 15 to 22 and 34 shall be provided free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either: (a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or (b) refuse to act on the request.*

    The controller shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.'

31 See https://www.iwf.org.uk/.

32 See: https://www.internet-signalement.gouv.fr/PortailWeb/planets/Accueil!input.action.

FINANCIAL CHALLENGE: FINDING APPROPRIATE WAYS OF FUNCTIONING OF THE INTERNET OMBUDSMAN INSTITUTION (INCLUDING ITS HIGHLY PROFESSIONAL STAFF), SECURING ITS INDEPENDENCE VIS A VIS FUNDERS

One suggestion for the funding of the institution is through a financial participation per request submitted before the body for each content assessment request. We find this idea reflected in the above GDPR, Article 12(5).[33]

Another proposal could be a specific tax, but this could be unnecessarily controversial given the current EU proposal on a general revenue-based tax scheme for the IP sector.

LEGAL AND PRACTICAL ASPECTS REGARDING THE FUNCTIONING OF THE INTERNET OMBUDSMAN INSTITUTION

INSTITUTIONAL SAFEGUARDS SPECIFYING THE MECHANISM ENSURING POLITICAL, LEGAL AND ECONOMIC INDEPENDENCE OF THE INTERNET OMBUDSMAN AND THE PROCEDURE OF DESIGNATION OF THE INTERNET OMBUDSMAN AND STAFF OF THE INSTITUTION: GUARANTEEING THEIR INDEPENDENCE AND COMPETENCE

Each Member State would be free to create the Internet Ombudsman institution in accordance with its own legal and political culture and traditions. It may be lodged with the Data Protection Agency, but should be an entirely separate institution in terms of independence.

The principles of independence and impartiality are the two mandatory aspects of the institution and must comply with the provisions of Article 6(1) of the ECPHR.[34]

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33 *'(a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested;* [..].'

34 *'1. In the determination of his civil rights and obligations [...], everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law'* and the Guiding Principles on Business and Human Rights of the United Nations Geneva 2011: '[…] *Having effective grievance mechanisms in place is crucial in upholding the state's duty to protect and the corporate responsibility to respect. The UNGPs dictate that non-judicial mechanisms, whether state-based or independent, should be legitimate, accessible,*

The Ombudsman Institution could be combined with an advisory board encouraging users to actively participate in the effort.[35]

The criteria established by the ECHR for independence and impartiality of the judiciary may guide us in formulating the basic principles that should apply also to the Internet Ombudsman.[36]

THE INTERCONNECTIONS BETWEEN THE FUNCTIONING OF THE INTERNET OMBUDSMAN AND THE JUDICIARY

It is important to stress that the opinion of the Internet Ombudsman is of a non-binding nature. It may therefore be argued that rules of due process, i.e. contradictory, public proceedings with rights of representation and appeal, are not necessary.[37]

Given that the IP is free to follow the opinion, it may be argued that Article 6 does not apply.

In view of the difficulty in some cases of qualifying specific content

predictable, rights-compatible, equitable, and transparent. Similarly, Company-level mechanisms are encouraged to operate through dialogue and engagement, rather than with the company acting as the adjudicator of its own actions.'

35 There are other Alternative Dispute Resolution mechanisms in place developed by for instance eBay involving submission of cases to private online dispute resolution institutions which are able to pass decisions quickly and efficiently. Recourse to the judiciary must however always be available. Alternative dispute resolution mechanisms have already been mandated in several legal instruments. In the field of Intellectual Property Rights recourse to dispute settlement is frequent and has been adopted in a number of instruments including the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). For trademark/domain names the 'Uniform Domain Name Dispute Resolution Policy' (UDRP) of ICANN applies. These dispute resolution mechanisms are however not adapted to content regulation.

36 Numerous judgments have interpreted Article 6(1) of the ECPHR (due process). Even though the Internet Ombudsman does not pass judgments, it is essential that at least these basic principles be met so that the necessary prestige and authority may surround the Ombudsman's opinions. Independence, which is deemed as a precondition for impartiality, means at least the following: independence from government, legislation and parties. This implies strict appointment procedures, transparency and publicity, and fixed terms. In addition, government intervention may not be authorised. The Ombudsman may be appointed by government, but it must have complete freedom to decide. No revocability in principle. The appearance of independence as stressed in several ECPHR–cases must be respected. In addition, we find inspiration on independence and autonomy in the GDPR's Articles 52 to 54 relative to DPAs and their independence in performing their tasks and exercising their powers as well as relative to the conditions required to be appointed as a member of a DPA.

37 On the question of appeal, the ECHR has actually not included this remedy as essential to Article 6.

as licit or illicit, IPs should not be liable for failure to take down or block access to content unless the IP disregards the opinion of the Internet Ombudsman.[38]

The content qualification assessment procedure should be characterised neither as a judgment, nor as a decision or as an arbitration award, but as authoritative guidance, but it does not have a legal effect.[39]

The Internet Ombudsman's opinion has a disculpating effect on the intentional element, i.e. good faith, but the prosecution and the judiciary would retain full competence against the author, publisher, editor and the IP in case of – later – judicially determined infringement.

Should the Internet Ombudsman not consider the content to be illicit and render an opinion in this sense, the IP would be in good faith to follow the opinion and not take measures against the content. In this regard, it would also be highly unlikely that a later judgement were to find the content in question to constitute a violation of a victim's individual rights in the eventuality that the victim initiates a case against the IP. Bad faith is part of the intentional element and must apply when finding vicarious liability. It is a fundamental rule of criminal law that criminal liability is principally attributed to the perpetrator of the offence and that complicity requires an element of intent.[40]

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38 With this regard, the proposal is different from the suggestion in 1996 to create a national committee in charge of assessing whether or not content was in contradiction of French law ('*Comité supérieur de la télématique auprès du Conseil supérieur de l'audiovisuel*'). According to said law, IPs would be held criminally liable for content deemed in contradiction of French law by said committee. France's Constitutional Court declared the provisions made by the Law and the Committee unconstitutional on grounds that it had too broad intervention powers with penal consequences. See French Constitutional Council, 23 July 1996, Decision No. 96–378 DC.

39 The Internet Ombudsman is also not analogous to the bill tabled in the UK in 1928, which would have allowed the government to seek prior advice from the High Court on a question of law (Tom Bingham, *The Rule of Law*, Penguin Books, 2010, pp. 93–94). The Internet Ombudsman should also be distinguished from other initiatives such as the 'self-regulation institutions' ('*regulierte selbstregulierung*') under the aforementioned German Network Enforcement Act, or the 'Internet Consumer Ombudsman' ('*Online: Konsumentinnen in* Österreich') created by the Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection. (It has, among its main tasks, the establishment of an alternative dispute resolution mechanism between consumers and companies concerning fraudulent services, online shopping, Telecom-ISP, IP and data privacy.) The Internet Ombudsman is also not a self-regulatory body like the Italian '*Istituto del l'autodisciplina pubblicitaria*' (http://www.iap.it/?lang=en).

40 ECHR, 29 August 1997, *A.P., M.P. and T.P. v. Switzerland*, Case No. 71/1996/690/882; ECHR, 29 August 1997, *E.L., R.L. and J.O.-L. v. Switzerland*, Case No. 75/1996/694/886).

Even if the courts were to consider the content to be illicit, the IP concerned would be in indisputable good faith. It should therefore not be held liable for not taking measures to prevent the content from being accessible or referenced. In other words, acting in accordance with the opinion would relieve IPs from any future penal or civil sanctions including claims made by authors, editors, publishers or any third party relative to the specific content covered by the opinion.

It is noteworthy that the opinion of the Internet Ombudsman does not impact on the legal rights and obligations of the author of the content or any other third party.

The difficulty, however, is that the opinion has legal effect since it may relieve the IP of penal, administrative[41] and civil sanctions. This means that the prosecuting entity is barred from prosecution and that third parties have no civil cause of action against the IP.

The question is therefore whether such a limitation of prosecutional privilege and judicial oversight is possible from a constitutional law point of view and whether it is compatible with the ECPHR.

As far as the effects on prosecution are concerned, we already have such examples in the NetzDG, which refers to 'self-regulatory bodies'. A decision from this body would be binding upon the prosecution since it is deemed to decide on the systematic nature of infringement.

An example from French law is the committee on tax offences ('*Commission des infractions fiscales*'). The Ministry of Finance and the prosecution cannot initiate a case on tax fraud until and unless this committee has so approved.[42] A further example from French tax law is the 'rescrit' which provides taxpayers with legal certainty and bars later sanctions in case the taxpayer follows the opinion contained in the '*rescrit*' (Article 80 B-1° LPF).

In common law countries, ouster clauses of a partial nature may be allowed (e.g. imposing strict limitations in time).[43]

With regard to civil sanctions, we are faced with the difficulty of a

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This also applies to complicity by way of material support even tough the degree of intention may vary and does not necessarily require '*dolus specialis*'.

41   The NetzDG's sanctions are not considered penal, but administrative.

42   Article L228 A of the *Livre des Procédures fiscales.* This system may be changed, but for practical reasons, not for legal reasons.

43   See The House of Lords' seminal decision in *Anisminic Ltd v Foreign Compensation Commission* [1969] 2 AC 147.

victim of hurtful content seeking damages from the IP notwithstanding that the IP in question has received a 'positive' opinion from the Internet Ombudsman. Such a civil action may be legitimate if the author is unknown or resides in a jurisdiction practically out of reach of the victim's reasonable efforts. In such a case, it should be possible to submit the opinion to judicial review.[44]

It can furthermore not be excluded that the penal criterion of licit/illicit is stricter than the civil law application (this is often the case, for instance, between fraud and misrepresentation).

The ECHR has not directly interpreted Article 6 (due process) in terms of restricting the powers of the legislator to limit review of administrative decisions.

AMBIT OF ISSUES TO BE PROCESSED: TERRORISM, HATE SPEECH, HARASSMENT, CYBER BULLYING

The Internet Ombudsman's remit should be limited to the following issues:
- Hate speech/incitement (including xenophobia, racism, anti-Semitism, sexism, etc.)
- Extremist content/radicalization
- The right to be forgotten
- Cyberbullying
- Harassment
- Defamation

The Internet Ombudsman should not cover opinions on the interpretation or the reach of the National Security Exemption (ICCPR, Article 19(3)(b) and GDPR Article 2(2)-(3), Convention 108)[45] or intellectual property rights.[46]

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44   Such review should be limited in time (Ouster clause with partial effect) and it should not suspend the effects of the opinion i.e. immunity if followed pending the case. In the event the judicial review overturns the opinion, immunity will only be lost from that moment on and only if the IP chooses to leave the content accessible. The GDPR also contains a remedy against the DPA for failure to take action (Article 78).

Two *Conseil d'Etat* (highest administrative court in France) cases (*Conseil d'Etat*, 21 mars 2016, Cases No. 36808 and 390023) have recently allowed judicial review of 'recommendations'. They dealt with AMF ('*Autorité des Marchés Financiers'*) and '*Autorité de la concurrence'* recommendations of a soft law nature.

45   Or the Johannesburg Principles.

46   WIPO jurisdiction and DMCA Article 512(c)(3), (f) and (g).

The remit should be limited to the assessment of offences as inchoate crimes (not requiring an analysis of causation). The element of intent ('*mens rea*') is not decisive. The analysis of content legality should be objectivised to the largest content possible, taking into account both semantics and context.

Darknet content should not be covered since IPs have little or no control over it. The same applies to block-chains where the decentralised nature of the technology raises serious challenges to secondary liability.

Specific issue of 'fake news'

Fake news and propaganda should not be part of the Internet Ombudsman's remit.

These questions are related to facts and not to the legal qualification of content.

How does the Internet Ombudsman fit into the GDPR?

As an introductory remark, the GDPR is not a content regulation instrument as such.

It does not, for instance, regulate subjects like hate speech. It is limited (in accordance with its title) to the processing, collection, transfer, etc. of personal data.

It does, however, contain certain content regulation provisions backed by substantial penal and civil sanctions, for instance in Article 82 on the 'Right to compensation and liability' and 4% administrative fines (Article 83(6)).

It is therefore essential also to review whether the GDPR contains sufficient safeguards in terms of collateral filtering to the extent that the GDPR may result in content regulation (for instance Article 16 on the 'Right to rectification'[47] and Article 17 on the 'Right to erasure' (also called the 'Right to be Forgotten')).[48] On this particular point, the GDPR refers

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47 '*The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her.*'

48 '*1. The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:*
   (a) the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
   […]

to notions that are not always clearly defined: 'no longer necessary' or 'overriding legitimate grounds', 'freedom of expression'.

In addition to the above qualifications under Articles 16 and 17, other difficult applications of the GDPR may arise in relation to Article 3(2) on territorial scope where the intention of processing data on subjects within the Union has to be proven[49] and Article 5 (purpose, adequacy and accuracy), Article 6 (lawfulness and necessity of processing) and Article 7 (consent), Article 21 ('compelling legitimate grounds for the processing') and even Article 44 ('transfer across border').

The Internet Ombudsman's remit should not include these questions. The Internet Ombudsman should only provide opinions on content qualification and not procedures surrounding the GDPR as such (for instance whether consent is validly obtained).[50]

CONCLUSIONS AND OPERATIONAL RECOMMENDATIONS

As a consequence of the pervasive impact of online content on off-line behaviour and the gatekeeper function of Ips, it appears that we have no option but to impose a certain degree of responsibility on IPs for content disseminated on their infrastructure.

For reasons that we have seen above, it will not be possible to apply current media laws directly to IPs given the nature and enormous volume of third-party-generated content produced on an uninterrupted basis.

A sui generis accountability theory must be developed.

(d) the personal data have been unlawfully processed;
[…]
3. Paragraphs 1 and 2 shall not apply to the extent that processing is necessary:
(a) for exercising the right of freedom of expression and information […]'

49 '*2. This regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:*
(a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
(b) the monitoring of their behaviour as far as their behaviour takes place within the Union.'

50 It should be emphasised that Article 57 which defines the remit of Data Protection Agencies (DPA) does not include advice on specific matters to IPs (In a case in France of 6 December 2013 it was decided that the IP could not obtain a 'preventive decision' on content qualification.). Neither the national DPA nor the European DPA (Article 50) provide advice on the legal consequence of conferring immunity.

In spite of the current more or less uncoordinated efforts at state and at regional level to regulate content, it is clear that these initiatives converge on some sort of liability platform (differences mainly appear in terms of enforcement, remedies and sanctions).

These sanctions may create significant exposure to free speech by inducing IPs to take measures that could lead to over-blocking, especially in the light of the difficulties of qualifying content as illicit. Unfortunately, content legislation like 'hate speech' or the 'right to be forgotten' is vague and necessitates a difficult balancing act between concepts like 'free speech', 'public interest' and other values.

The role of the Internet Ombudsman would precisely be that of enhancing legal certainty, preventing over-blocking and thereby allowing increased regulation by establishing a true partnership with industry, which would perform the role of obligated gatekeepers while society at the same time lifts its share of the burden.

In order for the Internet Ombudsman to function optimally, transparency should be ensured. This should apply both to the opinions of the Internet Ombudsman and the decisions of IPs to comply or not with the Ombudsman's opinions. Such transparency would allow public debate and create awareness. It would also provide information to advertisers, thus enlisting the IP business model in attaining the desired result while not restricting free speech.

The Internet Ombudsman would be the corollary of sanctioned content regulation.

We need to think out of the box. We need to accommodate new technologies for better or for worse and at the same time protect both free speech and other values.

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South Africa in the times of Mandela's political rise: A correspondence

Prof. Julian Kinderlerer and
Christopher Coenen

INTRODUCTION

This contribution to the present volume aims to shed light on South African society and politics in the period of early apartheid from the 1940s to the 1960s, during which Nelson Mandela politicised himself and was so successful as an activist that the apartheid regime found it necessary to imprison him and some of his closest comrades.

Emeritus Professor Julian Kinderlerer, a member and immediate past president of the European Group on Ethics in Science and New Technologies (EGE), was born in South Africa in 1944, grew up there and left the country in the mid-1960s, shortly after Mandela was imprisoned on Robben Island. In the following written correspondence with Christopher Coenen, Professor Kinderlerer shares political memories of his youth and student days and reflects on South African society, the struggle against apartheid and Mandela's legacy.

Question: Our exchange is about your political perspective on the period from the mid-1940s to the mid-1960s, when you were born, grew up and studied in South Africa. Those were also the years when Nelson Mandela first became politicised, then rose to prominence in the anti-apartheid struggle and was eventually imprisoned on Robben Island.

From our exchange that prepared this correspondence, I understood

that your perspective on the anti-apartheid struggle was deeply influenced by your specific Jewish experience and the viewpoints derived from it, and we will come back to that. But perhaps, without omitting this specific perspective, of course, you could first outline in general terms, from a political perspective, the family and personal environment in which you grew up and later studied? For example, is my assumption correct that in these environments you were predominantly influenced by and in contact with progressive (including the Progressive Party), liberal (including the Liberal Party), socialist and communist views? And rarely or not at all interacted with, for example, supporters of the fiercely racist National Party, which (again) ruled the country since your early childhood? Could you give some examples of political activism and beliefs in your family environment in your early years and some in the time you were studying? And did you interact with people of Africanist persuasion and, more generally, at what time and in what ways with black anti-apartheid activists in general?

Julian Kinderlerer: My father was born in Poland in 1907 and by the time he was 20 had been ordained as a Rabbi within the Chasidic movement in Koinskie, a small town near Radom. In 1930 he had had enough, cut his ties with religious Judaism, and travelled to Paris to study at the Sorbonne. He couldn't afford the fees and had to cease his studies and accept an apprenticeship with a furrier to make ends meet. Within a few years he 'qualified' as a master furrier and set up his own business in Paris. In 1939 he left France intending to join his brother who had settled in Cape Town earlier in the 1930s. Whilst in Paris the lure of fascism had taken hold, and he told me that one was either a fascist or a communist – being Jewish, he joined the Communist Party and must have been involved in much street unrest during those turbulent times. He was denied entry to South Arica initially due to legislation imposing restrictions on refugee Jews and was forced to stay on the boat as it sailed up the east coast of Africa, alighting in Lourenço Marques (Maputo) where he stayed for a year.

He obtained entry to South Africa with the help of the then Minister for Home Affairs who became a family friend. Harry Lawrence was an interesting person who had been a member of the South African Parliament for many years. He was on the liberal wing of the United Party, and in 1959 left the main opposition party to found the Progressive Party. The Progressive Party was the most liberal of political parties in the South African Parliament, believing that the apartheid policies were

fundamentally wrong. In 1961 he lost his parliamentary seat to a more reactionary politician. Helen Suzman (who represented a predominantly Jewish seat) was the only Progressive Party member who retained her seat.

Dad had met my mother when visiting his brother in Cape Town in 1936 and she had acted as his supporter with Lawrence as he was the MP for the constituency within which she lived. They were married in 1943, and my twin sister and I were born in April 1944. Although no longer a communist, Dad had very liberal views. He was truly an academic, although he worked as a furrier for his whole life – speaking 17 languages (most European and Middle Eastern languages including Arabic and Hebrew). His love of books was such that we had thousands of them in our home.

I joined a 'socialist' Jewish youth movement at the age of eight called Habonim – meaning builders. We used to say that whereas Scouts taught you how to light a fire without matches, Habonim taught you to remember to bring the matches. I would guess that Dad was a member of a similar movement in Poland before the war. I remained a member of this organisation until I left to attend Cambridge University at the age of 21. This movement preached the need for Jews to return to the land, following the teachings of the 19th-century philosopher A.D. Gordon. He was a Zionist who rejected the internationalism of socialism and capitalism. The revival of the Jewish people demanded the re-establishment of a bond between the Jews and the land (agriculture). Our movement made us think of going to Israel and establishing 'kibbutzim' – working on the land. We were not really 'South African' – our goal was leaving the country which had nurtured us and going to Israel. I found this important, but the manner in which our 'non-white' compatriots were treated was also really important to me (and I guess to all of those in the movement).

I remember my father choosing to vote for the Liberal Party when I was in my teens. The Liberal Party initially advocated a qualified franchise rather than a complete overthrow of apartheid. In the 1960s the Liberals stood unequivocally for a democratic non-racial South Africa, 'one person, one vote'. Although growing up I was aware of the inequalities in South Africa, I was so involved with Habonim that I guess the inequities really were one of the driving forces for indicating that my future was not in South Africa.

In 1960 everything changed.

In February 1960 the British Prime Minister Harold Macmillan addressed both houses of Parliament of South Africa. The evening before

Harry Lawrence had called and said: forget school, come and listen to this speech (Macmillan, 1960). He was right. It was 50 years since the foundation of South Africa. He talked about the growth of national consciousness in Africa as a political fact for which the Western world had to come to terms – 'The wind of change is blowing through this continent, and, whether we like it or not, this growth of national consciousness is a political fact. We must all accept it as a fact, and our national policies must take account of it.' It was a seminal moment, hated by the Afrikaner establishment, but obvious to me, a passionate schoolboy!

In March the Sharpeville massacre occurred, 69 individuals were shot by the police, nearly 200 injured. I was at school on the day it happened, and we were evacuated from the school to our homes, avoiding the centre of the city of Cape Town – taken from school in armoured vehicles by the police. There was a march to the centre of Cape Town which led to two people being killed when police fired on the marchers. I was 15, and really scared. After that I could not avoid the reality of that which was South Africa. If you were black (as defined by the apartheid laws) you had always to carry a pass, and you had few rights – most Africans were not permitted to live in Cape Town, for example. The Immorality Acts (1927 and 1950) forbade interracial sex.[1] In 1949, the government passed a law disallowing marriage between white and 'non-white' persons, and in 1950, any form of sex between persons of different racial groups became criminal. Soon the government ensured that people of different races could not live in the same suburbs. Beaches in Cape Town were zoned, most only for whites, and even park benches were identified for whites or 'non-whites'. Eventually public transport was segregated. I used to travel to school on segregated buses; all races were allowed up-stairs on the double decker buses, whites only on the lower deck. I always went upstairs. The reminder of the racialism of the holocaust made the apartheid laws repugnant to me.

Harry Lawrence introduced me (a teenager) to many of the politicians that ruled in these awful times. I know I detested many of these individuals, yet they were people. I was conflicted and confused.

Once again, I think I turned inwards. There were little acts of defiance. At 16 I passed (easily) the interpreter's examination for English and Afrikaans (tweetaalig eksamen). Within two years, at my final school exams, I refused to speak Afrikaans and failed the examination in that language.

1   See https://en.wikipedia.org/wiki/Immorality_Act.

Nevertheless, I passed more than well enough to attend university – eventually graduating with distinction. I won a scholarship to Cambridge and was able to attain an exemption from the army to allow me to leave South Africa (with an instruction that I could not return). The time between the end of the South African university year in December and the beginning of the European university year in September meant I had time on my hands which allowed me to become more involved in politics. The Student Union at the University of Cape Town had invited Robert Kennedy to lecture on academic freedom on 6 June 1966 (Kennedy, 1966). I helped organise this and was then targeted by the police.

Curiously, although I met the architects of apartheid through Harry Lawrence, which spurred me on to reject apartheid, I never knowingly met the leaders of the anti-apartheid movement. I was focused on going to Israel, eventually – although I never wanted to work the land living on a kibbutz.

Question: Was the instruction that you may not return an official decision, and if so, on what legal basis was it made and when was it rescinded? And when did you actually return to South Africa for the first time, how often and how long, roughly speaking, did you stay there later in your life, during Mandela's lifetime? And I was also wondering how you, your family and their friends saw Mandela before his imprisonment: Was he seen as the leading figure of the anti-apartheid struggle? And as an older pupil or student, were you aware of the political differences inside the black anti-apartheid activists, for example between communists and socialists working with the whites on the one hand and Africanists/ African nationalists on the other?

Julian Kinderlerer: The instruction to not return to South Africa was informal; when my dad died, I travelled to South Africa and my passport was stamped indicating that admission to the country was on compassionate grounds. I really only went back after the end of apartheid in the middle 1990s. The government then returned my South African citizenship backdated to the 1960s, classifying me as a former freedom fighter.

I was aware of Mandela, and of the two 'treason' trials[2] that were prosecuted by the apartheid government. We were surprised at the acquittal in the treason trial; my family was appalled that the prosecutor, Percy Yutar, was Jewish (given the holocaust). The second trial, 'Rivonia' led eventually

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2   See https://www.sahistory.org.za/article/treason-trial-1956-1961.

to many individuals being sentenced to life imprisonment. All of the 'white' accused were of Jewish extraction (Bob Hepple was half Jewish), which was a source of pride for me. Some of my friends (acquaintances) were very involved in the anti-apartheid movements. We were certainly aware of the ANC (which was an inclusive movement) and the PAC which was much more 'Africanist'.

Question: You pointed out that you were 'not really South African', that you felt strongly about Israel and planned to go there, and that Macmillan's speech was seminal and the legitimacy of his message was obvious to you. How did you feel about Britain politically when you were young? Did you feel British when you were in South Africa? Did you attribute apartheid or even racism in South Africa largely or entirely to Afrikaners?

Julian Kinderlerer: We certainly did not feel British. Most of my family had fled to South Africa at the end of the 19th century from Lithuania, and most of the older generation spoke Yiddish at home. I was brought up speaking English, as that was the language of most people around us, and Modern Hebrew out of pride for the establishment of the state of Israel. When growing up we were intensely aware of the hatred between English speakers and Afrikaans speakers. In a book by Harry's son, Jeremy Lawrence (Dickens, n.d.), he talks about racialism in South Africa, and it was only when part way through the book that I realised that he was talking about this hatred, not antipathy between white and 'non-white'. The English speakers were just as racist, in general, as the Afrikaner, but the philosophy of apartheid was very much an invention of the Afrikaners – The Broederbond was a secret society dedicated to Afrikaner nationalism (and supported the rise of Nazism in Germany, including the formation of a paramilitary force (greyshirts))[3] which advocated for segregation of 'non-white' persons; and was extremely anti-Semitic (Lawrence, 1978). The separation of persons based on their skin colour (brown, black, of Indian origin, white – it was not only white-black) was profound during the 1950s and the 1960s. Even living in the same areas of the country was forbidden. If anything, when growing up, I saw English speakers as much more liberal.

Question: You have now outlined some essential aspects of the political situation in the country where you grew up and your own personal background in this context. You have pointed out the ideological and

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3   See   https://disa.ukzn.ac.za/sites/default/files/pdf_files/spe19660606.026.022.000.pdf
     and http://www.cca.uct.ac.za/cca/arc/visual-university/kennedy

political closeness of the architects and supporters of the apartheid regime to Nazism, including their anti-Semitism, and the widespread sympathy among Jews for the struggle against apartheid and the involvement of Jews in this struggle and the sympathy of the many left-wing or liberal Jews for it. What I am trying to understand better is how people like you and Mandela's Jewish comrades defined themselves against apartheid, also in terms of the currently again often discussed distinction between universalism and ethnic or similar identities. You once said that you and your family, as Jews of European descent, were 'classified as white', and in our recent correspondence I noticed that you seem to use scare quotes when writing about 'whites' in this context. Is this because you are questioning the very notion of 'whiteness', or because you feel it is inappropriate to subsume Jews to this term in this or any context? Was apartheid in your view back then built on the dominance of Afrikaners over the other so-called 'whites', and the brutal and openly racist domination of South Africans of Asian descent and especially indigenous black Africans, making the struggle against apartheid one between peoples or ethnic groups or races, so to speak? Or did you see it as a struggle between all kinds of progressive forces on the one hand and anti-Semitic and racist far-right forces on the other? Or in yet another way? And in terms of this particular situation in South Africa from the mid-1940s to the mid-1960s, could one say that the resistance to apartheid was a kind of continuation or mirror image of the anti-fascist alliance against the Axis, in that progressive forces in the broadest sense – from moderate liberals to communists – worked together against a common enemy of freedom, justice and humanity?

Julian Kinderlerer: Most white (Jewish?) supporters of the struggle for recognition of the rights of the 'non-white' people in South Africa were supporters of the Communist Party – if not members (Israel and Adams, 2000), and those still alive still are in many instances. Those who had had Jewish upbringings rejected Judaism. Yet we, as young people who were imbued with the Zionist philosophy, also revered these individuals. I think without doubt that the resistance to apartheid formed an anti-fascist alliance. We really did see the apartheid government as fascist. The South African government today is an alliance between the ANC, Trade Unions and the Communist Party.

Question: Having heard a little about your perspective on the general situation in the two decades that are our focus, your personal background

and some issues of identity, I am now curious to know how a very young man like you could act against the apartheid regime in these depressing and oppressive circumstances. For example, could you perhaps share some of your memories around Kennedy's lecture that you and your fellow students from the Students' Union at the University of Cape Town organised, and how you saw and see the political impact of this lecture?

Julian Kinderlerer: Most of my reaction to apartheid was passive. Almost all of my friends were opposed to the system, but our overriding wish was to leave, to start a new life in Israel. The majority did go to Israel, and many stayed, although not necessarily on kibbutz. My generation involved in the youth movement were intellectually committed and hence became doctors, lawyers and academics. The majority of my friends have eventually found a new life in Israel, the US, Canada, Australia and New Zealand.

Once I was involved in organising the lecture, I found that the security police were tapping my phone, following me, and eventually arresting me and holding me for a short, traumatic time. My father had returned to Judaism by this time and was active in the community. The then Chief Rabbi (Israel Abrahams, who I knew well) asked to speak to him about me. My father asked me to join them. The Rabbi said that my activities were hurting the Jewish community and my father should require me to desist. It was the first time that I ever heard my father swear as he asked the Rabbi to leave.

The impact of the lecture was huge (Hockenberry, 2016). The government was scared and reacted harshly. Shortly thereafter, I left for the UK, and tried to forget South Africa …

Question: I thank you for sharing some of your personal memories of these events. In our exchanges prior to this correspondence, I learned that for the Habonim, the Jewish youth movement that was so important in your life during those years, the Hebrew concept of *tikkun olam*, the 'healing' – or 'repair'? – of the world, was a key concept, and they were thus among the pioneers of its use in a secular sense. Could you please tell us a little more about what you and your fellow Habonim understood by *tikkun olam* at that time, and what role it played in the overall thinking of the Habonim? I ask also because this idea of a future repair or healing of the world was central to philosophers to whom I owe a lot, and I wonder and would like to ask you whether you think that the overcoming of apartheid could be seen as *tikkun olam*, understood as successive, as a process?

Julian Kinderlerer: The concept of *tikkun olam* was absolutely central

to that which we thought about, but it was through the building of the Israeli state through a democratic process which was based on inverting that which we called the triangle. Jews were predominantly based in towns and had professions distant from agriculture – we had to regain the base of the triangle, by working on the land! Jewish society was described by Ber Borochov[4] as an inverted pyramid: 'Whereas in a typical society, industrial and agricultural workers make up the base of the pyramid, among the Jews, few filled these roles, and the lack of normal productive life made them vulnerable to forces outside their control, and led to their wanderings from country to country' (Jewish World, n.d.).' We were the first generation after the holocaust, and the anguish and despair that had been experienced in that dismal decade was now replaced by enormous optimism due to the foundation of Israel. We could live again. That I and many of my friends never knew grandparents or uncles and aunts had a profound effect on us. The impact on the rest of the world, for my generation, would be by example – a light unto the nations (Brenner, 2018). Whilst we tried to ensure that we did not support the oppressive dictates of the apartheid government, it probably wasn't our greatest concern. Some amongst my contemporaries moved to a much more active support for the liberation movements as we grew older. I left South Africa when 20 years old, still very much an idealistic youth.

Question: Also looking at the history of apartheid in general and the struggle against it from the 1940s to the 1990s: how do you see Mandela's role in it and more generally him as a historical figure? And how have your thoughts and feelings about South African society changed since his presidency compared to when you were young? Has the end of apartheid also healed your relationship with the country you grew up in, so to speak?

Julian Kinderlerer: I always believed that the anti-black racism in South Africa was nowhere near as horrible as that which was displayed in the United States. I lived in Cape Town, where the number of black South Africans was relatively limited compared to most of the country. The bitterness which I now perceive coming from both sides was not really present (to me) when I was young. Many who never experienced apartheid now extol the harshness of life their parents experienced, rather than that which they experienced. I relate to my own feelings when I first visited Germany and the hatred I felt at that which had been done to my family,

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4   See https://www.jewishvirtuallibrary.org/ber-borochov.

compared to now, when that feeling has gone and the need to remember but rebuild is more important.

Mandela was an amazing man in that he could forgive and rebuild after the trauma he and so many others suffered. The first 20 years after the end of apartheid are his legacy. The last few years reflect the corruption of the Zuma ANC that has desperately detracted from that which he strove to build. There is a culture of the state owing those who were disadvantaged due to their suffering during apartheid which seriously impacts on that which people expect. South Africa has reverted to racialism, but now it is directed against the minority white population. A recent example are the reactions to a very distinguished white professor and former deputy vice chancellor being appointed as a temporary deputy (Evans, 2020). Mandela's dream of a rainbow nation, where attainment would be based not on the colour of one's skin, but rather on one's ability, is no longer. Hopefully, the pendulum will swing again, and we can truly forget and forgive.

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The long talk to freedom: Censorship in a culture of isolation

Erin Klazar and Rachel Fischer

INTRODUCTION

It was 27 April 1994 when South Africa was finally declared a free country with the first 'free and fair elections for a democratic country'. Despite being born in the 1980s, during one of the most tumultuous times in the apartheid regime as many things came to a head, we were too young to understand the full implications of what had just transpired. We recall starting school in that transition period, where the differentiation between races was no longer a matter of consideration. Even the national anthem, containing five of the eleven national languages, was fluidly integrated. There are of course flashes of events that nowadays, with the understanding and context of today, make much more sense to us as young South Africans. The realisation of how radically things were different then, compared with life these days, stands in stark contrast. And yet, there are instances of disconcerting similarity.

In the years that followed 1994, it was the change in the demographic of our classrooms[1] that stood out. It was the slow and systematic change in the way our families and friends spoke, the phasing out of judgement and discriminatory humour based in racism. This was despite the fact that,

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[1] The authors started school in 1993 and 1994 respectively, and were exposed to apartheid to a minimal extent. They experienced the aftermath in the classrooms of this new democracy integrating all races and cultures. There was therefore an interesting mix of 'recent past' as remembered and experienced by adults and the 'new normal' as experienced by children perhaps only subconsciously aware of racial and cultural differences and discrimination.

in the run-up to the 1994 elections, there was a sense of fear and panic present, with family and friends stocking up on tin food and water in case civil unrest broke out. Nevertheless, this only resulted in us having to eat all that tinned food in the year that followed, because the transition was thankfully peaceful. We can only understand this occurrence and its related importance now, for as young girls we were shod in naivety.

The peacefulness of the transition could be ascribed to the team that led the country first through the 'Convention for a Democratic South Africa' (CODESA) (United Nations Peacemaker, 1991), working in a participatory fashion towards compiling the new Constitution. Thereafter, a sense of solidarity was realised through the joint government that took the lead post the 1994 elections, under the leadership of Nelson Mandela, otherwise popularly called 'Madiba'. Madiba was the father of our nation, and had a deep understanding of the value of education and access to information. Even during his imprisonment on Robben Island, Madiba continued his education, viewing it as a means of escape from his cell.

A somewhat broken nation at the time, South Africa battled against growing pains, reluctance to change, past prejudices, existing stereotypes and immense cultural diversity. Moreover, this rainbow nation needed a father figure to lead us. Madiba would be the first to say he was not perfect, but the calm and fatherly presence that he offered through the transition kept the peace in what now, in hindsight, feels like the golden years of South Africa. We had no idea how close it came to being vastly different.

While the cosmetic and surface changes in South Africa over the last 27 years have been obvious, the underlying and more subtle disparities are still very much present. Indeed, we no longer have separate beaches or restricted areas based on race, but there is still major spatial planning, economic, educational and employment disparities. We no longer officially restrict education based on race, for example, but the injustices of the past have resulted in generational inequalities still manifesting in education with severe knock-on effects and information poverty.

In an analysis of our own history in South Africa, we have begun to question whether the 'new' South Africa really brought the equalities that were hoped for, or whether we have simply swapped racial disparities that defined apartheid, with the economic disparities and information poverty that seem to define the 'new' South Africa. We needed something concrete to compare the pre- and post-1994 era, having been too young to truly

experience the direct effects of apartheid. We therefore decided to look at freedom of expression, information access, as well as journalism, and embarked on a comparison of these pre- and post-1994. While trying to consider the difference the Mandela-era truly made in South Africa, we would need to compare the information freedoms of journalists and citizens prior to 1994 versus post 1994. This narrative is therefore not only a personal reflection of our youthful experiences, but also a homage to those who have fought for justice – albeit through political intervention or media representation.

PHILOSOPHICAL CONTEXT

'Education is the great engine of personal development. It is through education that the daughter of a peasant can become a doctor, that the son of a mine worker can become the head of the mine; that a child of farm workers can become the president of a great nation. It is what we make out of what we have, not what we are given, that separates one person from another.'

Nelson Mandela, 1994

It was René Descartes who said: 'I think, therefore I am', or more famously '*cogito, ergo sum'* (Hatfield, 2018). Descartes believed that, as human beings, we gather information through our senses from external sources and our knowledge is developed from that. To fully comprehend our external world based on empirical evidence, one would need to question the physical existence of all things, but the one thing we cannot doubt is the fact that we are doubting. Descartes sparked the dominant discourses on dualism which distinguished between mind and matter, resulting in a paradigm shift in both philosophy and science. Essentially, dualism is grounded in the realisation that the interpretation of matter is purely dependent on the mind and can be made sense of rationally. A rather cold, rational and functional way of being, it certainly predicated the prowess of man as a matter of intellectual perception and evaluation, instead of being-in-the-world lived experiences. On a practical level, questions that could result from this include 'What is real?', 'How do we know this is real?', 'How can real be manipulated?' and 'Does my reality differ from yours if we are both rational creatures?'.

We already know from our daily experiences how easy it is to have misunderstandings based on perceived experiences and interpretations, so clearly the mind is not calibrated among individuals within the whole of humanity. These questions make it evident that the 'I' in 'I think, therefore I am', is a very singular expression when compared with the collective 'we'. We can also see how susceptible we can be when exposed to sources which *seem* very authoritative and interested in the public good, which could in reality be misleading and only self-serving. These sources could be responsible for the distribution of information resources such as popular media – social, digital, traditional and print – which is one of the core focal points of this chapter. This begs the question whether authority equals honesty and trustworthiness. Together with this, if sources can both *seem* to be trustworthy AND false, how can citizens distinguish between these? Conversely, what happens if important *true* information is withheld from citizens, in order to manipulate them in the interest of the status quo?

The information revolution brought incredible opportunities for access and distribution of information. But it also brought something sinister with it, particularly in the hands of hegemonic powers, such as the apartheid government of pre-1994 South Africa. Hegemony is understood as one group dominating another one, and usually this is supported by the dominance of, and legitimation, of norms and ideas by the dominating group or class. Although this dominance can be enforced by power, i.e. the police force and by the economical influence of one class over another, it is normally realised through information distribution and manipulation in order to retain the status quo. Antonio Gramsci argues that every relationship of hegemony is 'necessarily an education relationship [which] occurs not only within a nation, between the various forces of which the nation is composed, but in the international and worldwide field' (Storey, 1994: 87). Not having access to information – of which education is a major driver – reinforces hegemony. Hence it is education which should withstand hegemony. Let us consider that Nelson Mandela addressed the guests of the Education Africa Presidential and Premier Education Awards with the following inspiring words: 'The power of education extends beyond the development of skills we need for economic success. It can contribute to nation-building and reconciliation. Our previous system emphasized the physical and other differences of South Africans with devastating effects. We are steadily but surely introducing education that enables our children

to exploit their similarities and common goals, while appreciating the strength in their diversity' (1997). In 2021 we are starkly reminded how true his words are, and especially their relevance due to the ubiquity of communication technologies.

With globalisation and the continuous developments in information and communication technologies (ICTs), the speed at which information can be shared has increased exponentially. But this is not just a 21st-century phenomenon manifesting on online and social media platforms. Post-truth, mis- and disinformation and censorship have been a thorn in the side of information freedoms since the inception of the information revolution as enabled by the Gutenberg Press in 1456 (Giles, 1996). In South Africa, the hegemonic government in power during the apartheid era enforced censorship across race and class lines. This censorship controlled who could contribute to information creation as well as those who could benefit from it. We particularly see this made manifest in the system of Bantu education during apartheid. This education system, promulgated by the Bantu Education Act of 1953, reinforced a racially discriminatory system, providing substandard education by underqualified teachers (SAHO, n.d.). Ultimately, by censoring information then and now – which is limiting access to quality information – was, and still is, socially and cognitively unjust.

Looking at the right to education, fighting for equality in knowledge representation across all cultures is central to this notion (Fischer and Klazar, 2020). This is especially of relevance when it comes to who has the ability (and opportunities) to contribute to information creation and consumption. Clearly this should be a fundamental human right, but all too often we see how censorship during apartheid, and now with dataveillance and disinformation, many people are excluded from this basic engagement. This comes back to why quality education is key, for it empowers citizens to partake in informed discussions on matters impacting them. As stated by Nelson Mandela: 'Education is the most powerful weapon which you can use to change the world'. So, how is education relevant to social and cognitive justice?

Let us consider the meaning of cognitive and social justice. Three authors actively promote and write on cognitive justice: Boaventura de Sousa Santos (Brazil), Maja van der Velden (Norway) and Shiv Visvanathan (India). Van der Velden (2009) states that 'Cognitive justice is not just

tolerance towards alterity, also understood as difference, in knowledge representation, but also active endeavours towards inter- and intracultural dialogues and recognition of diversity. It is realised through open and flexible designs that do justice to different ways of knowing and being' (2009: 38). De Sousa Santos argues in similar lines; that information and scientific knowledge should be distributed equally and fairly (De Sousa Santos, 2007: 66). And finally, Visvanathan emphasises the strengthening of the voices of those who have formerly been excluded, defeated and marginalised (2009). Social justice, as an equally important concept, is the fair and equitable access to and use of information. It also recognises one's right to quality information and one's ability to contribute to the knowledge society (Britz, 2004). Therefore, a cognitively and socially just society is one that allows for diverse discourse, following from equitable access to information, and a broader understanding outside of an individual's personal belief system.

One way to gauge the information controls in a society is to look at the freedom of the press. To truly understand the changes that South Africa undertook, we approached Ryland Fisher, a veteran journalist and activist in South Africa, who gave his account of the changes in journalism pre- and post-1994.

INTERVIEW WITH VETERAN JOURNALIST RYLAND FISHER

'Without language, one cannot talk to people and understand them; one cannot share their hopes and aspirations, grasp their history, appreciate their poetry, or savour their songs.'
Nelson Mandela, 1994

The interview was dialectical in nature, and although the background and questions were provided to Fisher in advance, the engagement with him flowed naturally. He had valuable first-hand experiences of the impact of social injustice on access to information, specifically in the space of journalism and the media. He was also in support of honouring Nelson Mandela and ultimately highlighting the sacrifices that were made to provide us with the freedoms we enjoy today, particularly in relation to access to information. The following homage to Nelson Mandela, from

Rafael Capurro, was used to guide the interview (2020):

> Mandela's life and work show the dark side of a society in which information and communication are subject to oppression and exclusion that turns to be inhumane, that is to say, morally and politically unsustainable. What is morally evil can be understood as the will to achieve something that implies lastly the annihilation of this will. Mandela's reflections upon these issues are also an outstanding contribution to Africa's cultural memory.

The sections that follow encapsulate the spirit and content of the interview which reflects on Mr Fisher's experience and insight.

A 'NON-WHITE' JOURNALIST IN APARTHEID SOUTH AFRICA

'I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities.'
Nelson Mandela, 1994

Growing up in South Africa, it was difficult to not become involved in the struggle against apartheid as a young man classified as 'coloured'[2] under apartheid. Fisher was 16 years old when he witnessed the Soweto Uprising on 16 June 1976, an organised demonstration led by black students in Soweto protesting against Afrikaans (a language associated with apartheid), as a medium of instruction in schools. However, the protest was met with heavily armed police resistance, who used excessive force on peacefully demonstrating students (SAHO, n.d). This protest by 20 000 pupils resulted in the death of 700 people, including many youth (South African Government, n.d) This has been marked as a major turning point in South African history, profoundly changing the socio-political landscape in South Africa.

As a student at a school in Hanover Park at the time, it was this event that sparked something with Fisher, and he joined protests against what had happened in Soweto. When he left school, he became a journalist

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2   A South African term for someone of mixed race under the apartheid regime.

by day and activist by night, tackling the injustices of apartheid. It was a tough job, maintaining the objectivity that journalists strive towards, but witnessing the atrocities of apartheid as an activist at night.

When he became a journalist, Fisher would not be sent to the 'white areas' to report on stories but was rather sent into the townships and into the 'coloured areas'. This was due to the inherent bias that made the editors of the newspapers believe that black staff were incapable of reporting on other races. With inherent bias and restriction mirroring the apartheid laws in the various publications of the time, he found himself working at the *Cape Herald*, a newspaper aimed at 'coloured' people. He was not able to work at the *Cape Times* because it was a 'white newspaper' targeting wealthy readers, and 99% of staff were 'white'. He knew he could not make a significant change if he worked at a newspaper like this. He enjoyed the *Cape Herald* because he had the freedom to do community-based stories, looking at struggles in the communities with education and work conditions. Had he worked at the *Cape Argus* or *Cape Times*, which were 'white newspapers', those stories would not have been allowed.

Realising the importance of getting community stories published, he left a reasonably well-paid job and went to work for a community newspaper called *Grassroots*. *Grassroots* allowed Fisher to become more of an activist and give a voice to a community that, up until then, had been censored and silenced under apartheid laws.

ACTIVISM AND *GRASSROOTS*

'A good head and good heart are always a formidable combination. But when you add to that a literate tongue or pen, then you have something very special.'
Nelson Mandela, 1976

What guided them at all times in their journalism and activism was the Freedom Charter drawn up in 1955, which spoke to the equalities of social justice and the recognition of diversity outlined in cognitive justice. The Freedom Charter, a result of the liberation campaign of the 1950s led by struggle icons such as Nelson Mandela, became the backbone of the current South African Constitution. All they wanted was 'to be a part of

the future of Africa'. The dream was to have a people's government that would provide security and comfort, and open the doors of learning and culture to everyone. The dream of a free and equitable society, one with equitable access to education, information and security, equality in the law and decent housing is what drove them in their continued fight against apartheid. The opening statement of the Freedom Charter says it all:

> We, the people of South Africa, declare for all our country and the world to know: that South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of the People; that our people have been robbed of their birth right to land, liberty and peace by a form of government founded on injustice and inequality; that our country will never be prosperous or free until all our people live in brotherhood, enjoying equal rights and opportunities; that only a democratic state, based on the will of all the people, can secure to all their birth right without distinction of colour, race, sex or belief; And therefore we, the People of South Africa, black and white together – equals, countrymen and brothers – adopt this Freedom Charter. And we pledge ourselves to strive together, sparing neither strength nor courage, until the democratic changes here set out have been won.

> The 1955 Freedom Charter

The vision for a free South Africa was strong, but the 1980s were a tumultuous time for those involved in the struggle against apartheid, and Fisher says they had no idea how close freedom truly was. Only in the late 1980s, when political prisoners were being released from Robben Island, that they begin to realise that freedom might be a possibility. Up until then, the alternative was unknown, but the general feeling was that things could not continue as they were. In stark contrast to the values of the Freedom Charter, the apartheid government went out of their way to censor any publications from struggle stalwarts, including Nelson Mandela. During his time on Robben Island, the government made every effort to remove Nelson Mandela from public life and attempted to censor any publications from him or images of him.

The 'non-white' communities of South Africa realised they needed to find stronger ways to have their voice heard and uphold the vision of the

Freedom Charter. Fisher was approached to work on a new publication called *Grassroots*, a newspaper that would essentially be owned by the community, with members having a say in what was published in the newspaper on a five-week publication cycle. Behind the need to be heard, something more profound was born: a publication reflecting the true voices of the people. *Grassroots* became a true example of cognitive justice and the preservation of indigenous knowledge of this marginalised community.

Each news cycle would start with a news gathering meeting, with an invitation to all the representatives of community organisations, trade unions, sports organisations, church groups and more. At these meetings, dozens of community representatives would sit in a circle and each person would have an opportunity to discuss what was happening in the area, and whether it would make a good story for the publication. In the weeks that followed, stories would be selected, discussed and edited. The atmosphere was hopeful and those involved were passionate about freedoms and democracy. In fact, Fisher aptly described them as '*democrazy*' – simply crazy about democracy.

Community newspapers were not only a way of engaging with the community for their knowledge, but also an effective means for organising groups in the struggle. This quickly became a threat to the apartheid government, who banned the newspaper, and any others like it. Under the Internal Security Act of 1982 (based on legislation from the 1950s), the apartheid government worked to restrict freedom of expression and association, by detaining journalists, censoring information and banning newspapers that they believed would 'endanger the security of the state or the maintenance of public order' (Valentine, 2014). Some of those involved in the production of the *Grassroots* paper were therefore arrested under the legislation, and police guards were posted outside the offices of the newspaper 24 hours a day.

For a group of '*democrazy*' people, this would not be a deterrent. Meeting in parking areas of shopping centres and safe houses, they continued to produce *Grassroots*. They kept up with the work despite the challenges and the legal ramifications, because of the passion of the work. Even though to the 'white' community or economic 'upper class', these struggles were unknown, the production of publications like *Grassroots* gave a voice to those who had been oppressed for far too long.

CHALLENGES THAT CAME WITH FREEDOM IN THE '90S

In the 1990s, when changes began to show, it was clear that newspapers would need to change as well. The feeling was that they could focus on journalism because the activism did not have to continue. Smaller community newspapers like *Grassroots* died out. The funding required to run such publications often came from overseas investors who were contributing to the fight against apartheid. With the release of prisoners like Nelson Mandela in 1990, the CODESA in 1993, and ultimately the first democratic elections in 1994, much of the international funding stopped, because everyone thought they were *free*.

It seems with freedom came unintended crucial losses: a loss of indigenous knowledge and community engagement, and a loss of comradery that came in the fight against apartheid. Newspapers and the media were no longer restricted by government and its censorship laws, but with the loss of foreign investment, a new form of control would soon take its place.

NEW KIND OF (ECONOMIC) CENSORSHIP

'The truth is that we are not yet free; we have merely achieved the freedom to be free, the right not to be oppressed. We have not taken the final step of our journey, but the first step on a longer and even more difficult road. For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others. The true test of our devotion to freedom is just beginning.'

Nelson Mandela, 1994

Fisher believes it is time for us '*to take our activist boots off the shelf*' because there is a great deal of work still to be done. While we have legislative freedom, the reality is that the commercialisation of news and the media has created a new form of censorship.

The commercial influence on newspapers is significant, particularly in the online environment of today. Media houses are no longer able to rely on print media, but also have to compete in an online space, and they live or die off advertising. The term 'click-bait' is well known, with media agencies sensationalising headlines to draw people to their websites and

increase advertising revenue.

Because of this, a new dominant force has come into play, with advertisers having a strong influence on what is reported. Much of what is reported today is aimed at people who have disposable income, those consumers who would respond to the corresponding advertising. As a result, those South Africans who work in the lower living standard measure categories are completely excluded from the media. The media will write about them, but not for them.

Media still, post the inception of democracy, targets specific demographics. Sometimes across races but more often across income brackets, in order to draw people with disposable income in. The challenge is that writing about markets outside of the target market perpetuates privilege because it lowers exposure to the realities of South Africa. Fisher believes part of the problem is the advertising industry itself. The advertising industry is still dominated by whites with disposable income, who have no real understanding of what is happening in the other levels of South African society, and therefore do not target advertising that appeals to communities outside of their own. Although objectivity is something taught in communication and journalism schools, Fisher believes that no one can truly be objective. Each of us comes with our own '*social, historical and political baggage*' (2020), and this impacts what is reported and how it is reported. We cannot simply leave our baggage at the door. Understanding this limitation is the key to successful change.

It is also potentially this '*social, historical and political baggage*' that has nurtured a culture of isolation in South Africans and our media. In his experience, Fisher has described South African mainsteam media as parochial. Having worked at newspapers in other African countries, it was liberating to see how much more international and African news they tend to carry. In South Africa, newspapers tend to avoid continental news or international news, focusing on local news of interest to a specific target audience. This feeds into the mindset of appealing to a demographic that has traditionally isolated themselves within their communities, through the apartheid era, right up until today.

CONCLUSION: SOCIAL MEDIA AND PRESS FREEDOM

'We have not taken the final step of our journey, but the first step on a longer and even more difficult road.'
Nelson Mandela, 1994

This chapter was a personal reflection *cum* individual narration from two perspectives. The first is a reflection by young South Africans who grew up in a new South Africa and are currently faced with an information era where content is driven and censored through both political and economic metrics, resulting in information manipulation, targeted advertising and surveillance capitalism that reinforces perceived individual needs and desires. It has never been so easy to communicate, and therefore the door opens to be more easily observed and controlled by hegemonic forces.

The second narrative is from the perspective of the lived experience of a journalist who saw first-hand how people were excluded from communication and content contribution based on race pre-1994, and on economic exclusion post-1994. The discrimination has always been targeted, much like the 'advertising' nowadays in both print and electronic media.

The perceived culture of control and isolation of peoples and communities manifested during apartheid continues to impact the information needs in South Africa through economic control and threatens to lead us into a new form of solipsism. According to the *Stanford Encyclopedia of Philosophy*, solipsism is the view that 'I am the only mind which exists' or 'my mental states are the only mental states'. This is echoed by Avramides, who interprets it as 'I am alone in the universe'. If we consider what Descartes stated about our state of mind being influenced by the external stimuli that we experience, we can start to question how everything that we experience, including physical objects, events, people, information and processes, might form part of my mental state. While Descartes' philosophy and the concept of solipsism has been heavily criticised, one has to question whether or not we have entered an age where the manipulation of media down political and economic lines has not created an environment for solipsism to flourish. Phrased differently, it has allowed the 'I' to flourish as opposed to a collective 'we', establishing a self-serving narrative that destabilises democracy, truth and objectivity. A selfish, solipsistic individualism does not prioritise the needs of others in

the act of social responsibility. Nelson Mandela argued on matters related to the role of the free press, as well as the consideration of the collective:

> A fundamental concern for others in our individual and community lives would go a long way in making the world the better place we so passionately dreamt of.

<div align="center">And</div>

> A critical, independent and investigative press is the lifeblood of any democracy. The press must be free from state interference. It must have the economic strength to stand up to the blandishments of government officials. It must have sufficient independence from vested interests to be bold and inquiring without fear or favour. It must enjoy the protection of the constitution, so that it can protect our rights as citizens.

During apartheid people were also observed and controlled, all rationalised under the mirage of political prowess. South Africa had a hero, Nelson Mandela, who championed and fought for our democratic freedom and human rights. But the fight is not over, the weapons have simply changed. As emphasised by Ryland Fisher, the media must, will and should never be homogenous. The strength of a vibrant democracy is a diverse and independent media. We will need to put those '*activist boots*' back on and continue Madiba's legacy in the fight for the global collective and our freedom of access to information as well as social and cognitive justice.

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Coetzee Bester studied at the University of Pretoria, South Africa, where he completed his Doctorate in Information Science (2018). Prior to that his studies included an undergraduate degree in anthropology, a postgraduate diploma in tertiary education, and a master's degree (cum laude) in Information Science (1999). This master's study resulted in an integrated

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Dan Shefet is a French lawyer born in Denmark. He holds a philosophy degree and a law degree from the University of Copenhagen. He specialised in European law, competition law as well as human rights in general and in the IT environment in particular, he also holds conferences in academic venues on IT law, data privacy and human rights on the internet. In 2014 he founded the Association for Accountability and Internet Democracy (AAID), the main objective of which is to introduce a general principle of accountability on the internet in order to secure the protection of human integrity.

Julian Kinderlerer

Julian Kinderlerer was born in Cape Town, South Africa in 1944 – his father had immigrated to South Africa from Poland (via France) in 1929 due to the Nazi treatment of Jews in Europe, and hence was strongly aware of the the perils of racism. At the University of Cape Town in the early 1960s Julian studied Chemistry, attaining a distinction on graduating with first class honours. He won a scholarship to attend Cambridge University and during the interregnum between completing his degree and travelling to the UK he helped organise the visit of Robert Kennedy who had been invited to give the annual address on academic freedom at UCT in 1966. He was a vocal opponent of racism and the apartheid policies in South Africa.

After completing his doctorate at Cambridge he was appointed to a lectureship at the University of Sheffield in the Department of Biochemistry which became a Department of Molecular Biology and Biotechnology. He transferred to the Faculty of Law and was promoted to a professorship in biotechnology law. He assisted the University of Cape Town in defining a new research unit within the Faculty of Law for thinking about intellectual property law and policy in relation to new technologies, and was then appointed to lead this group and as a research chair at UCT in IP law. In addition, he was appointed to a part-time professorship at TU Delft in Biotechnology and Society.

In 2005 Julian was appointed to be a member of the European Group on Ethics in Science and New Technologies (EGE) and on re-appointment in 2010 was elected president of the EGE. In 2016 he was again reappointed to the EGE under its new mandate.

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