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THE UNITED STATES AND THE DIRECT BROADCAST SATELLITE: A CASE
STUDY OF INTERNATIONAL MASS COMMUNICATIONS AND
INTERNATIONAL POLITICS

City University of New York

PH.D. 1986

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THE UNITED STATES AND THE DIRECT BROADCAST SATELLITE:
A CASE STUDY OF INTERNATIONAL MASS COMMUNICATIONS
AND INTERNATIONAL POLITICS

by

Sara Fletcher Luther

A dissertation submitted to the Graduate Faculty in
Sociology in partial fulfillment of the requirements for the
degree of Doctor of Philosophy, the City University of New York

1986

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THE UNITED STATES AND THE DIRECT BROADCAST SATELLITE:
A CASE STUDY OF INTERNATIONAL MASS COMMUNICATIONS
AND INTERNATIONAL POLITICS

Abstract

by

Sara Fletcher Luther

Adviser: Professor Michael E. Brown

The possibility of transborder direct television broadcasting by satellite (DBS) into dwelling places around the world raises important issues affecting international relations, state sovereignty, cultural interaction, and the organization of political-economic systems. That DBS is less costly per person than terrestrial systems and provides a much improved signal makes the new technology of particular importance not only to the developing nations but also to the global market interests of the developed countries. An understanding of the U.S. role in advancing the new technology requires a review of the history of radio development and of the emergence of international regulatory efforts, a period marked by two catastrophic wars, and a pattern of continuing east-west tension. The growing body of mass communications research conducted in the United States reflected these historical trends in interesting but uncritical ways, often serving to legitimate the interests of the media industry and, after World War II, the growing U.S. cultural and economic influence in the developing countries. The specific issue of television broadcasting across national borders via space satellite became a central concern of the developing nations and the Soviet Union during the late 60's and early 70's

as they observed technological and entrepreneurial developments in the United States. At the same time international space law was emerging, as part of the larger body of accepted international law which had become established through the existence and work of the United Nations and its many specialized agencies. Ten years of UN debate over whether or not a state has a right to reject a space television broadcast emanating from outside its borders ended in a stand-off, with the United States continuing to oppose any principle of "prior consent" and with the General Assembly voting to endorse it. The United States defends its position on the grounds of the First Amendment and a human right to a free flow of information. A Marxist theoretical framework is offered for understanding the depth and importance of the conflict, including the function and content of mass communications, the market imperatives of capitalism, and the contradictions which inhere under these conditions.

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CHAPTER I -- THE DIRECT BROADCAST SATELLITE AND THE UNITED STATES

SECTION 1 -- INTRODUCTION AND OVERVIEW

Among the many sweeping changes effected in our lives by advances in science and technology is the possibility of the instantaneous diffusion of information to vast masses of people on a world scale. Historically, this kind of access to information was once the privilege of priests and kings -- a privilege they have slowly been required to share with ever-widening circles of participants. Today, access to information has become open to almost everyone, via the incredible power of the electro-magnetic discoveries and their subsequent development in radio, television, and communication satellites positioned in outer space.

This startling but already mundane fact cannot be accepted unquestioningly without probing the multiple meanings of the term information, surely no neutral word. For example, by whom is information to be defined and organized, to whom directed, by whom received? More generally, the phenomenon of information in all its aspects must be seen in relation to the central issues of our time, issues which loom over our daily lives with indomitable

persistense: how is humankind to survive the threat of world-consuming nuclear war? how is it to organize and direct itself toward diminished injustice and enhanced social and individual development?

Moreover, such questions if they are to be posed at all must be posed in the context of the conflicting ideologies which are shaping our contemporary world, the deep and longstanding conflict between capitalist forms of organization, and socialist forms. This seemingly simplistic view needs of course to be supplemented with the recognition that there are many ways of perceiving this conflict, varying the definitions, heightening the nuances, dwelling on or minimizing contradictory aspects. In fact intensive research into particular issues within this framework of conflict, for example the status of women, or the philosophy of education, or the internal organization of industry, or the uses of ideology, would bring to light many lines of parallel development in the differing systems. Theoretically, such parallels can be seen as enriching our understanding of the complexity of social theory, highlighting commonalities rather than differences in modern industrial states, and perhaps permitting the clearing of new space for study and mutual understanding.

But in the larger arenas of world relationships -- the fora of the United Nations, the processes of economic and political development in the so-called Third World, the ongoing national struggles over information and cultural autonomy within world

electronic and communication networks -- in these arenas the conflict between the two major contending systems and philosophies attains grave and indeed central importance.

Against this background there has arisen the particular controversy over the development of a new technology called Direct Broadcast by Satellite -- DBS. The possibility of mass broadcasting via space had been foreseen in the early Twentieth Century when human-made satellites were first beginning to be theorized by scientists and science fiction writers. It came closer to reality with the emergence of rocketry in World War II and saw its first successful demonstration with the first space satellite, the Soviet sputnik in 1957.

In the sixties the first communications satellites to be launched were positioned in elliptical orbits, which meant that as they circled the earth they traced ever-changing patterns of movement requiring constant and difficult tracking by the sending and receiving earth stations. By 1965 the scientists and the gigantic rocket-launching apparatuses had accomplished the placement of communications satellite in the geo-stationary orbit -- the GSO. The GSO forms an arc directly over the equator at a distance of approximately 22,300 miles above the earth. Satellites launched into this orbit and fixed to travel at a velocity which matches the turning of the earth have the essential advantage of remaining stationary in relation to the earth, thus permitting relatively permanent up-link and down-link signal transmission. The GSO orbit also permits global coverage:

three such space communications satellites placed equidistantly in the GSO orbit could transmit instantaneous radio or television signals to almost every area on earth. Further, since transmissions via satellite make use of ultra high frequency wavebands (microwave) they are relatively free from the ionospheric limitations and nuisance static common to shortwave signals. They are also very difficult to "jam".

It should be added that up to the present writing (July, 1985) the use of communications space satellites for radio and television transmissions, while already commonplace, is limited to what is called point-to-point broadcasting or Fixed Satellite Service (FSS). In FSS, signals are designed by prior agreement for reception by a designated receiver, for example the network of another country, or, internally, by cablevision companies or local radio or television stations. The receiving entities then distribute the signals to individual receivers. Use of FSS communications satellites by states or by licensed entrepreneurs within states has been accelerating during the past decade, partly because of the enormous advantages they offer for commercial and military telecommunications and partly because they could proceed in an already existing regulatory environment with established ground rules for inter-corporate or inter-state legal relationships.

By contrast, "direct" broadcasting by satellite (DBS) describes satellite broadcasting which is directly intended for individual receiving sets without intermediary. At the present

time DBS is not being put to any authorized use, in part because of as yet unresolved technical requirements and in part because of the long drawn out and still continuing international controversy over possible ground rules on how it is to be used.¹ It will be important to keep in mind the difference between FSS (Fixed Satellite Service) and DBS (Direct Broadcast by Satellite) as this study proceeds. Our focus throughout will be on DBS although many issues, especially in the early years of space communications development, have had relevance for both technologies.

As space knowledge advanced in the '60s, the potential of this new technique -- direct broadcast by satellite -- came to be of increasing interest to the various participants in world politics, including those engaged in ideological, developmental and trade competitions. In the West, especially in the United States as the country with the most advanced space technology, DBS was assessed early as another possible channel for capital expansion, particularly in the markets of the Third World, which had already proved to be profitable outlets for sales of American films, television, advertising, periodicals, and other cultural products. For other capitalist countries -- Canada, Western

1. Despite the absence of international agreement on DBS, it has developed that many individual television set users in the United States and Western Europe and Japan have acquired the large dish antennas used by receiving ground stations and have adapted their TV sets accordingly so that they may receive directly the signals intended for point-to-point distribution. The legal status of these bootlegged signals is not yet established.

Europe -- DBS held a two-edged potential. In United States' hands, it could serve to accelerate U.S. cultural and commercial advances, but to the Europeans it offered in addition the possibility of creating a counter-force to U.S. penetration should they develop their own communications satellite capability (which they subsequently did). In countries of the Third World, with their heritage of colonial exploitation and impoverishment, there was enthusiasm over the promise of overcoming underdevelopment with a technological leap to nationwide mass communication -- in the service of such fundamental but still unattained goals as health care, literacy, nutrition, agricultural advancement. But coupled with that enthusiasm was anxiety that the continuing concentration of space technology in the advanced countries might well work to the cultural and economic disadvantage of the smaller nations.

In the socialist countries, with the USSR at their center, the new technology was viewed cautiously and in the context of past experience. Would the United States carry its ideological competition -- Radio Free Europe, Radio Liberty (originally called Radio Liberation from Bolshevism), and Voice of America -- from shortwave into outer space? How could socialist nations protect their sovereignty and internal autonomy from unwanted American television penetration?

Out of this assortment of perspectives and concerns emerged an international drive to achieve a better understanding of the positive educational advances which could be achieved by

utilizing DBS, a campaign spearheaded in the 1960's by UNESCO. At the same time, the Soviet Union led an international effort to get the United Nations to develop guidelines for international control of DBS. In 1972 the USSR won UN General Assembly approval, by a vote of 101 to 1, of a proposal that the Committee on the Peaceful Uses of Outer Space (COPUOS) be instructed to develop guidelines to prohibit direct satellite television broadcasts into a nation without its consent, and to prohibit the broadcast of incitements to war, and to prepare such guidelines with a view to eventually embodying them in a treaty. The negative vote was cast by the United States and in the succeeding years, the U.S. was able to forestall any favorable action by COPUOS on the development of such guidelines.

The United States position has been formulated in different ways but essentially has rested on two arguments. First, on the United States constitution, which is in this case interpreted as prohibiting government restraints, whether by treaty or by law, on United States citizens' reception or transmission of speech, whether internal or internationally. Second, on the perception of the United States as conduit of truth to citizens of certain other nations whose right to receive information would be jeopardized should their government refuse to accept incoming television signals.

In the years since 1972, while keeping the issue stalled in United Nations committee, the United States has moved forward with its own DBS technology, in conjunction with satellite

communications development in general both by private enterprise and the military, and through expansion of the U.S.-created structures COMSAT and INTELSAT.

The possibility of direct broadcast by satellite as a replacement or competitor for existing domestic broadcasting arrangements such as cablevision, the national networks, etc., raises significant regulatory and financial issues both for the major communications corporations and the Federal Communications Agency which has been by law designated to oversee the industry. Important as they are, these are not matters which will be addressed in the present study. The emphasis will be rather on the complex political, social and economic issues which arise over the possibility of direct broadcast by satellite across national boundaries into the dwelling places of nationals of other countries. The development and possible regulation of this new potential form of mass communication has continued to be a focus of intense international debate, with the United States, as the most powerful participant, at its center. It is this controversy and the role which the U.S. has played in its unfolding which is to be the central focus of this study.

One set of questions to be considered arises out of the possible uses to which DBS will be put -- similar to the questions which were posed when mass broadcasting first came into existence. For example, which of the many possibilities will become significant: education tool, channel for entertainment, weapon for nation-building, profit-maker, social stabilizer,

underground communicator? To what extent will the economic system within which the new technology is developed be reflected in the outcome?

Another set of questions evolves around the history and present distribution of the world's technological and material wealth. Are the new communicatory technologies to be developed according to the existing patterns or reshaped to new demands and aspirations? Where and how is this possible contention manifesting itself?

Nationalism and national sovereignty have become in our time concepts of transcendent importance. The unique capacity of DBS to go beyond the physical and ideological borders of nation-states obliges us to ask if and how it might penetrate or undermine twentieth century sovereignties and their attendant social relationships and cultural and ethnic identities.

Central to all of these issues is the question of how and by whom this new mode of mass communication is to be controlled. As with other developments in the uses of outer space, the coming of broadcasting via satellite has required nation-states to recognize each other as co-inhabitants, even co-dependents on the same planet, regardless of their differences. Their own self-interest makes cooperation imperative. In such a situation, how are competing national security interests to be negotiated? What is to be learned from conditions of enforced cooperation in related areas, or from earlier experience when the telegraph and

then the wireless first threatened to penetrate national
sovereignty?

SECTION 2.-BACKGROUND AND ORGANIZATION OF THIS STUDY

To understand the controversy over DBS, and the role played in it by the United States, it will be useful to examine the history of communications development and the rise of international efforts to cooperate in controlling use of the radio spectrum. It is a history which reaches back to Paris, 1865 when European states first began to work together to deal with intercommunication via telegraph. Official United States participation, or more accurately non-participation, began with the much larger telegraphy conference and resultant international agreement signed at St Petersburg in 1875, creating what today is regarded as one of the two earliest international specialized agencies: the International Telegraph Union (ITU). (The Universal Postal Union, founded in 1874, is the other). The complicated rationale for the United States' unwillingness to accept the treaty obligations concerning telegraphy policies and rates in many ways foreshadowed present-day policies regarding opposition to controls over the international flow of DBS. Chapter II of this study explores the early phases of U.S. international communications history, and traces the evolution of U.S. policy toward international radio regulations. The rise of commercial radio in the United States after World War I and its belated

internal regulation, the continuing efforts of the League of Nations to regulate radio signals which cross national borders, and the new phase of international cooperation which was the promise of the United Nations, all provide insights into how U.S. policy toward the issue of DBS has been shaped, by whom and with what goals.

For conceptual and methodological guidance, it seemed appropriate to turn to a study of the scholarship of American sociology in the field of social communication. Chapter III reviews this literature, its early emergence, subsequent development, and especially its consideration of the issues which arose with the sudden appearance and rapid growth of electronic mass communication. The examination is set forth with a view to discovering the chief concerns and points of concentration of the researchers. It also seeks to bring out the connections which might have existed between the researchers and their institutional settings, and with the larger society in which they functioned, recognizing that profound changes were occurring in that society as it experienced economic depression, marked capitalist development, and the mobilization of all its resources for war.

Further, chapter III further seeks to determine to what extent the emphases and methods of communications research of the 30's were carried over to the post-war period of world-scale growth of American industry and influence. How did mass media scholars respond to new government and market initiatives and

needs, and in this regard to what extent does their work seek or achieve objectivity? How does their scientific method function and what are its essential assumptions? These lines of inquiry are conducted in order to determine how the accumulation of mass media studies and communications theory may be used to deepen understanding of the current DBS controversy and its ramifications.

One of the remarkable developments of our time has been the rapid rise of a complex network of international relations regularized by international treaties. The creation and growth of the United Nations and the emergence of its many specialized agencies has erected a structure for political cooperation between nations, and despite many setbacks this new world political process has led to agreements of unprecedented scope and effectiveness. One of the central concerns of the UN has been the regulation of activities in outer space, culminating in 1967 with the Treaty on the Peaceful Uses of Outer Space, signed by all the major powers including the U.S. and the USSR. Concurrent with the forging of international treaty law in the United Nations, diplomats and authorities on international law have been giving sustained and concentrated attention to the form and content of international space law.

Chapter IV provides an outline of the many views of what precisely is thought to constitute international law, including the Soviet or Marxist understanding as compared with the Western interpretation. Within an international space law framework, it

examines the difficult questions which would appear to have a bearing on the possible development and use of outer space satellites to beam signals across the national borders of sovereign earthly states. Does international law as it has evolved on earth, including the treaties and conventions of the International Telecommunications Union, apply in outer space? If international law and international space law do apply to a television signal relayed by space satellite do they also apply to radio signals relayed by space satellite? Does state sovereignty continue in, or extend out to, outer space? Is there room for individual autonomy -- free enterprise -- in outer space? In the attempt to regulate the use of space in accordance with concepts of international law, national sovereignty and individual freedom, what recognition is given to military uses, already massive and up to now totally excluded from the jurisdiction of the International Telecommunications Union? What legal basis is there for the construction of a single global space communications system?

Exploration of such questions provides reminders of the tenuous nature of international law as a basis for problem resolution. Still it is significant that international space law experts from both East and West, and from the Third World, are continuing to engage in analysis and debate of these issues. Some of their work has found its way into treaties and conventions. Much remains on the table, subject to power politics and international negotiation.

The central forum for the promulgation of international law today is the United Nations and it is in fact there that the specifics of the legal debate over DBS have been laid out. Chapter IV concludes with a summary and update of the years of meetings and discussions on DBS which have taken place there, including an account of how the issue has taken on new dimensions in the form of the Third World's demand for a New World Information Order, including a vast program of direct assistance, via the UN development plan, for modern telecommunications infrastructure and personnel which will assure each country an autonomous role in world communication processes.

As indicated earlier, the present study is designed to give special attention to the role of the United States in the DBS debate, where it has stood virtually alone in opposing any concept of a state's right to prevent penetration by an unwanted television signal transmitted by satellite. Chapter V turns to the specific arguments offered by the U.S. and by private interests within the U.S. to justify that position. Chief among these is the concept of "free flow of information". Its explication by American law experts reveals the measure of its validity as well as some contradictions. Another central defense is said to be the mandate imposed by the First Amendment of the U.S. constitution, which is interpreted as precluding any limitations on broadcasting. Key analyses by recognized American authorities in international law raise serious doubts as to the correctness of this argument. Other legal questions and the U.S.

interpretation of them are also explored in further search of a full understanding of the U.S. position as, during the course of the long DBS debate, it has confronted opposing actions of the ITU, the non-aligned nations, and the equatorial countries. The chapter concludes with some of the speculation about two unspoken motives which may underly the U.S. position. One is U.S. suspicion that if television signals via outer space are to be restrained by international treaty, the idea might spread to include restraints on radio signals, thus legitimizing the Soviet Union's longstanding efforts to silence Radio Liberty and Radio Free Europe. The other is that regardless of any concerted action by other nations the U.S. intends to proceed with direct broadcast by satellite across international borders as soon as it looks to be technically feasible and financially or geopolitically profitable.

Necessarily, there are troubling limitations in this kind of empirically oriented historical approach to a study of the problem of mass communications across national borders. It is not sufficient to recite facts and review history without at the same time attempting to relate them to the underlying forces of history and society, forces which are often central to the contention over control of or participation in communications processes? As noted, Chapter III evaluates some of the methods of American social science and sociology and shows some of the inadequacies of traditional approaches. In Chapter VI another perspective is examined, the method and substance of critical or

Marxist approaches, as they may be applied to social communications on a mass scale. Chapter VII offers an updating of the issues. Finally, Chapter VII provides an updating of the rapidly developing field of global communications via satellite and offers some concluding observations.

CHAPTER II --THE POLITICAL HISTORY OF ELECTRONIC BROADCASTING

SECTION 1 --- EARLY DEVELOPMENT

The rapid industrialization and accumulation of wealth which characterized western European nations and the United States in the latter half of the nineteenth century was both dependent on and a stimulus to improvements in communication. As land and sea transport technology expanded so did the need for readily available information about the whereabouts and progress of the ships and trains. The new capitalism needed banking and finance services, stable currencies, foreign exchange arrangements and far-reaching trading networks, none of which could exist or be expanded without ready access to immediate information about market conditions, about policies of partners or competitors in distant cities, about threats to stability in those areas of the world which contained the raw materials, about the rise or wellbeing or fall of governments.

The industrialists' needs and the inventor's ability and willingness to try to meet them grew in tandem, reciprocally interacting and the milestones are well known. One of the

earliest was Samuel F.B. Morse's electro-magnetic circuit-breaker and his sparked message flashing along the telegraph wire from Baltimore to Washington in 1844: "What hath God Wrought?"¹ In 1851 came the first undersea cable, across the English Channel.² After enormous capital losses and technical difficulties, a transoceanic cable was completed across the Atlantic Ocean floor in 1866. The telephone came on the scene officially with the invention submitted by Alexander Graham Bell, who got to the U.S. Patent office just ahead of Elisha Gray in February, 1876. And in the first year of the twentieth century Guglielmo Marconi transmitted, in Morse code, the signal for 'a' across the Atlantic, using not the cable but the 'ether' itself, the atmospheric electric waves which the German Heinrich Hertz had identified in 1887.

The inventors and their triumphs were part of a dense process of profound social and economic change. Significant aspects of that process may be perceived in the peculiar kinds of strife which engaged these entrepreneur-inventors and their

1. It was of course transmitted in Morse's code, which was eventually to be adopted worldwide, an example of how the technology of the industrializing world spread its influence. Morse had worked out the code using dots and dashes for letters of the Roman alphabet, assigning the simplest dot-dash combinations to the most frequently used letter in the English language.

2. James M. Herring and Gerald C. Gross, Telecommunications: Economics and Regulation. New York and London: McGraw-Hill Book Co., Inc., 1936, p.19.

associates, for example their struggles to assert rights of ownership over their inventions, or their roles in the larger trade and commercial contestations being waged between nations, and especially the ambiguous relationship between the inventor and the state of which he was a citizen. The variety of confrontations with these issues -- property rights, tension across national borders, and the relationship of the individual to the state -- foreshadowed many of the complications which have come to be identified with the controversy over international broadcasting by artificial satellite. It will be useful to consider these questions in some detail.

The tradition of private property rights provided the framework and partial rationale for one of the fundamental elements of the Euro-American industrial system: the state's authority to issue patents. In the United States, the authority to issue patents had been assigned by the constitution to the national government, building on the practice established centuries earlier in England. The Constitution reads: "The Congress shall have power...to promote the progress of science

3. Patents stem from the King's power to grant privilege. They were systematized and reformed by a statute enacted during the reign of James I which did away with all such grants except for "new manufacture" in which case the "true and first inventor" could be granted exclusive rights. Significantly, a scientific idea or principle is not patentable unless it be "shown how to apply it so as to gain therefrom some material advantage". From Encyclopedia Britannica, Eleventh Edition. New York:Cambridge University Press, 1911. Vol. XX, pp. 900-903.

and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." Under present law the patent grant allows the patentee "the right to exclude others from making, using or selling the invention throughout the United States"⁴ for 17 years. Present law also requires that under certain conditions permission from the government must be obtained before an application for a U.S.-based patent can be filed in a foreign country, a provision which assures a degree of state control over the "export" of technology, as does the authority vested in the Commissioner of Patents and Trademarks to "order an invention kept secret if publication would hurt the national safety or defense".⁵ The patent process came to be of enormous importance in the history of telecommunication as evidenced by the growth in inter-corporate contests and court litigation over patent origins, patent sales, and patent rights throughout the period of development of radio and television.

The second issue, tensions and competition between nation states, should be understood in the context of the growing national self-awareness that characterized the nineteenth century. The process of nation formation and the growth of nationalism, while it had begun centuries earlier, was quickening

4. The World Almanac and Book of Facts, New York: Doubleday and Co., 1978, p. 817.

5. Ibid.

with the spread of industrialization in western Europe.

Overlaid with a web of myths, goals and motives, "nationalism" was primarily defined and elaborated through political initiative, and it became the ground for intense struggles. One essential condition for the development of effective nationhood was the control of internal communication, and as some nations expanded their power and commercial enterprise in search of "empire" they also sought communications control on a world-scale, a case in point being the rise of the British Empire.

Great Britain was an early leader in the competition between nations to gain industrial output and build markets, and its successes both fed on and added to a rapid development and control of worldwide communication linkages. The British monopoly of undersea cables helped secure their supreme position in world politics and trade and served to tighten their hold over farflung colonial offices, governors, and supply stations. Competitors, particularly American entrepreneurs and U.S. military interests, resented the profit-taking and policy control exercised by British investors as exemplified by the operations of a company like the British Marconi. The rivalry and mutual

6. Boyd C. Shafer. Faces of Nationalism. New York: Harcourt Brace Jovanovich, Inc., 1972, p.29. Shafer points to three necessary conditions for the emergence of nations: 1) growth of the secular state, 2) weakening of the church and feudalism, and 3) development of communication.

suspicion continued between the two countries for decades, presaging the international controversy and competition which has unfolded around the technologies of radio, including direct broadcast by space satellite.

The third issue -- the role of the state in relation to the various power groupings within it, and specifically to entrepreneurs like Morse, Bell and Marconi, and the companies they became associated with, raised questions that continue to affect the development of today's communication systems. The same Constitution which provided for the issuance of patents also declared that "Congress shall have the power....to establish⁷ post-offices and post-roads", a decision that placed these two kinds of activity outside the scope of the marketplace and identified them as collective concerns of government. But what kind of postal service was this code of dots and dashes which Morse sent along a telegraph wire? Did it properly belong in the hands of government.⁸ At first Morse himself believed that it did, and he enumerated many possibilities for it: as a device which could help verify bank accounts, apprehend deserters, provide needed national revenues and "put agents of the state in instant contact with one another". But his lobbying efforts in -----

7. U.S. Constitution, Article I, Section 8, Paragraph 7.

8. An interesting history of the privatization of the telegraph is found in Richard B. Duboff, "The Rise of Communications Regulation: the Telegraph Industry - 1844-1880", Journal of Communications, Vol. 34, No. 3, Summer, 1984.

Washington in 1844 were not successful; Congress decided otherwise and in time he apparently changed his own views, pointing out that his business associates preferred private⁹ "arrangements".

In other industrializing countries the private versus public question did not arise; the new telegraphy routinely became a part of existing postal services. That it did not in the U.S. may be seen as the beginning of an important pattern. Communications historian Keith Clark suggests the decision was a¹⁰ conscious policy. The Congress had in 1843 appropriated \$30,000 to let Morse demonstrate the usefulness of his invention. Another \$8,000 was allowed in 1845, with the disbursement being made through the Postmaster General. In 1846 Congress ordered that tolls from the telegraph line should be used for the Post Office "in the same manner as other revenue¹¹ from postage"; in 1847 "the experiment was abandoned". Clark speculated that the "abandonment" was related to the recently acquired interests of Congressman F.O.G. Smith who as chairman of the House Commerce committee had helped legislate passage of the original \$30,000

9. Oliver W. Larkin, Samuel F. B. Morse and American Democratic Art, Boston: Little Brown and Co., 1954, p.155.

10. Keith Clark, International Communications, the American Attitude New York: Columbia University Press, 1931.

11. Keith Clark, op.cit., p.112.

grant and who had subsequently left Congress to become a major
12
shareholder in Morse's company.

The profound changes following on the Civil War did much to alter the economic direction and shape of industrial development in the United States. Of particular importance was the rapid growth of the capitalist enterprise and the concurrent establishment of a dominant role for entrepreneurial interests in public decisionmaking. In this context national development came to be seen as part of capitalist development. Telegraphy, and in the 1890's telephony, were developed in this way, as one more arena for the realization of profit, both for the inventor and for his back-up stock company. Little attention was given to any formalized concept of social or national need, nor to systematized public planning for communications development. But while in theory government intervention, planning, or regulation in the interest of the public was supposedly excluded from the capitalist development process there were in fact many such interrelationships. Businesses grew in step with such major government policies as land-grants, issuance of patents, benign forms of regulation, direct subsidies in the form of military and naval contracts, and protection in the international arena as needed, when private U.S. commercial interests were in conflict

12. Larkin, op.cit., p.141.

with foreign governments or foreign entrepreneurs. For example when investors sought backing for the enormously expensive work of laying transatlantic cables in the 1860's and thereafter, both Great Britain and the U.S. governments pledged financial support to their respective citizen entrepreneurs in the form of
13
guarantees of future cable business.

Another early and long-continuing policy was the decision by the United States not to ratify the International Telegraphy Convention, which was adopted by a number of European nations
14
meeting in 1875 in St. Petersburg. The U.S. decision was grounded on the view that to be a signatory implied acceptance of the concept of government regulation of telegraphy, a concept
15
repugnant to the private telegraph companies in the U.S. It should be noted that the International Telegraph Treaty provided among other things that signator states had the responsibility to assure secrecy of telegraphic correspondence in their territory

13. Gleason L. Archer, History of Radio to 1926. New York: The American Historical Co. Inc., 1938, p.38.

14. The first International Telegraphy Convention was formulated at a meeting of 20 European nations in Paris, 1865, which is the year given as the founding date of the ITU. See George A. Coddington and Anthony M. Rutkowski, The International Telecommunications Union in a Changing World. Dedham, Mass.: Artech House, 1984. Also Coddington's "Politicization of the International Telecommunications Union: Nairobi and After", in Vincent Mosco, ed. Policy Research in Telecommunications. Norwood, N.J.: Ablex Publishing Corp.

15. Leslie Bennett Tribolet, The International Aspects of Electrical Communications in the Pacific Area. Baltimore: Johns Hopkins Press, 1929, p.12.

and had "the right to stop the transmission of any private telegram which appears dangerous to the security of the state or which is contrary to the laws of the country, to public order, or to decency; and to suspend, either generally or only on certain lines, any or all international telegraphic service....subject to notification thereof to the other contracting governments."¹⁶

These provisions clearly implied a government's power to control or regulate telegraphy within its national borders, and between it and other nations.

While the U.S. refusal to ratify may have indicated a rejection of this view of things, there were also strong countervailing forces within the United States which supported a controlling role for the state in such matters.¹⁷ From the early days of cable telegraphy the U.S. Navy had continued to promote the idea that the government was the rightful owner and operator of this new means of strengthening national security. Guarded support for the idea of the state as ultimate authority came even from commercial interests, jealous of the expanding reach of

16. Tribolet, op.cit., pp.10-11.

17. Success of the laissez-faire approach was hard won and seldom secure. Its protection and elaboration over the intervening century have been a matter of concern for many of its proponents, including the radio historian Gleason L. Archer who adds this obiter dicta to his account of Morse's early hope that he might sell his invention to the government: "Had the development of the telegraph industry been left to the Federal government it is probable that it would have been laid aside as a mere theory of science that under government largess had been tried and proved correct."Archer, op.cit. p.32.

British and French investors who were seeking to secure their North American cable terminals on U. S. territory without permitting reciprocal opportunity to American companies. In December, 1875 President Grant issued a statement making it clear that any foreign submarine cable company which sought to place cable terminals on U.S. possessions was subject to U.S. government control. Portions of Grant's message follow:

As these cable-telegraph lines connect separate States, there are questions as to their organization and control which probably can be best, if not solely settled by conventions between the respective States. In absence, however, of international conventions on the subject, municipal legislation may secure many points which appear to me important, if not indispensable for the protection of the public against the extortions which may result from a monopoly of the right of operating cable telegrams, or from a combination between several lines:

I. No line should be allowed to land on the shores of the United States under the concession from another power which does not admit the right of any other line or lines, formed in the United States, to land and freely connect with and operate through its land lines.

II. No line should be allowed to land on the shores of the United States which is not by treaty stipulation with the Government from whose shores it proceeds, or by prohibition in its charter or otherwise to the satisfaction of this Government, prohibited from consolidating or amalgamating with any other cable-telegraph line, or combining therewith for the purposes of regulating and maintaining the cost of telegraphing.....

18. U.S. Naval War College, Newport. International Law Situations, with Solutions and Notes. Washington, D.C.:GPO, 1907, p.140.

19. Keith Clark, op.cit. p.142-143.

I present this subject to the earnest consideration of Congress. In the meantime, and unless Congress otherwise direct, I shall not oppose the landing of any telegraphic cable which complies with and assents to the points above enumerated, but will feel it my duty to prevent the landing of any which does not conform to the first and second points as stated, and which will not stipulate to concede to this Government the precedence in the transmission of its official messages, and will not enter into a satisfactory arrangement with regard to its charges.

The Naval War College cited the Grant statement approvingly in a 1908 textbook and added a summary of an opinion of the Attorney General on the subject, which spelled out the commercial
20
interests in the issue:

It is his (the President's) duty to see that in the exchange of comities among nations we get as much as we give. He ought not to stand by and permit a cable to land on our shores under concessions from a foreign power which does not permit our cables to land on its shores and enjoy there facilities equal to those accorded its cable here....

The Attorney General's opinion also identified the security interests:

A submarine cable is of inestimable service to the government in communicating with its officers in the diplomatic and consular service, and in the Army and Navy when abroad. The President should therefore demand that the Government have precedence in the use of the line, and this was done by President Grant.

Finally, the Attorney General's opinion carefully circumscribed the basis of the President's authority:

The President's authority to control the landing

20. Naval War College, op.cit. p.140.

of a foreign cable does not flow from his right to permit it in the sense of granting a franchise, but from his power to prohibit it should he deem it an encroachment on our rights or prejudicial to our interests.

The Naval War College text cited above illustrates the tension between the anti-regulatory view, exemplified by the American telegraph companies in their opposition to the International Telegraph Convention, and the idea of the government as ultimate owner-operator-controller, put forward by the Navy for security reasons and occasionally by commercial interests when they needed protection from foreign competition. It is a tension that has characterized the relation between the state and the dominant forces of the private economy since the beginnings of capitalism and industrialization in the United States. In the event, the issue of public ownership of telegraphy versus operation for private gain faded from view when telegraphy itself was more or less eclipsed by other forms of information transmission which arose with the technology of radio. Before that happened, a number of presidents, including Grant, Hayes, McKinley and Theodore Roosevelt, had all proposed that "electric mediums of communication should have the same relation to the government as have the mails".²¹ Postmasters-General repeatedly sought the same action. Postmaster-General Wanamaker was about to move in that direction, historian Keith Clark writes, but was stopped by an opinion delivered by then Acting Attorney General

21. Clark, *op.cit.*, p.121.

William Howard Taft who found authority in the Constitution and the Act of 1866 for "transmitting telegrams, placing them in postal custody and delivering them" but none for the "employment or establishment of telegraphic appliances for the general transmission of correspondence."²² The opinion must have been well received by the telegraph companies. In any case it provided a termination of some forty years of debate. Telegraphy remained a private profitmaking enterprise and the United States government continued to remain outside of the International Telegraphy Convention²³ until the issue was solved in another way, in 1932, by the merging of the International Telegraph Union with the much newer international radio organization, which had come into existence in the twentieth century, as will be discussed later. The long simmering controversy over the relative autonomy of the telegraphy industry in the United States has not been critically examined by communications historians. In fact the few references which exist seem to treat the issue as a natural process devoid of social or economic stresses. Keith Clark, writing in 1930, summed it up as almost an act of nature by noting that "in a telegraph world of diversities", (meaning the difference between non-profit government ownership and

22. Ibid.

23. Keith Clark lists (p.103) the other western hemisphere countries which refused to adhere to the Convention: Canada, Mexico, Cuba, Central American States, Peru, Paraguay. The known role of the United States in most of these countries during the past century no doubt was a factor in shaping their policies.

private profit-making ownership), adjustment is achieved by two actions: the great majority of governments entering into an international convention which executes international regulation, and "the small minority of countries remaining outside the union [to] regulate their telegraph services in whatever degree their constitutions and public opinion permit".²⁴ In 1945, Llewellyn White and Robert Leigh, writing about historical patterns of ownership and operation in international communication, ignore the long controversy over telegraphy operations in the United States and simply state the outcome: "In contrast to the United States, the governments of virtually all countries are directly involved in the business of furnishing telecommunications services".²⁵ They do explain the exceptions: "In Greece, Egypt, Portugal and most Latin-American countries neither the government nor national industry controls the telecommunications links with the outer world, enterprising foreigners...having taken over such services by long-term lease."²⁶ That the "enterprising foreigners" were the same corporations which within the U.S. had insisted on autonomy from government regulatory interference went unmentioned.

24. Clark, op.cit., p.104.

25. Llewellyn White and Robert Leigh, Peoples Speaking to Peoples: A Report on International Mass Communication for the Commission on Freedom of the Press. Chicago: University of Chicago Press, 1946, p.17.

26. Ibid.

In sum, it is apparent that the ascendancy of the private commercial and corporate interests in the United States provided a temporary resolution of the controversy over control of telegraphy. But as we shall see, the problems became more complex with the acceleration in world development which occurred as major powers expanded their trading and colonizing activities and as technology provided new and more sweeping ways of communicating on a global scale.

SECTION 2 -- BEGINNINGS OF INTERNATIONAL CONTROL

The growth of electronic communication was markedly accelerated by the twentieth century forces of industrialization, rising nationalism, the emergence of powerful states, and especially by the wars and war preparations which these conditions engendered.

Between 1898 and 1905 four serious colonial wars occurred: the Spanish-American, the Boer War, the Boxer Rebellion and the Russo-Japanese War. The outcomes of the first three had the effect of putting Euro-American interests into strengthened positions of world power and world trade expansion, positions which required immediate and vastly improved linkages to faraway lands and peoples, as well as more advanced naval

27

defensive and offensive capability.

By 1903 the British Navy had set up a large number of wireless stations and placed radio equipment on many of its ships.²⁸ Merchant ship owners were also beginning to protect their cargoes and personnel by adding wireless equipment. In the United States, the Navy was placing wireless equipment on its warcraft and planning a string of coastal wireless stations.

International rivalry however, exacerbated by inter-company rivalry, was serving as a block to the unfolding of radio's possibilities. The British Marconi Company's early advantage in the contest had made it possible for it to dictate a policy of refusal to communicate with systems other than its own: the operator of a Marconi apparatus was prohibited from responding to radio signals emanating from a non-Marconi transmitter. While this appeared to assure the British Marconi Company's primacy, it aroused the ire of competitors, especially the Germans, who sought a resolution of the problem by convening an international radio-telegraphy conference in Berlin, with the first session occurring in 1903 and the concluding one in 1906.

The Conference attacked the Marconi monopoly head on. With the exception of Great Britain and Italy, the conferees decided

27. Archer, op. cit., pp. 74-5.

28. Archer, ibid, p. 76.

to recommend to their governments that ship-to-shore wireless telegraphy "be exchanged without distinction as to the systems of wireless telegraphy employed".²⁹ The 1906 final document also

stipulated that states which signed the agreement would "undertake...to impose the observance of these provisions upon private enterprises" or "on board ships which carry their flag".³⁰

But with Great Britain refusing to sign, the problem remained unresolved. Besides, despite the leadership of the U.S. delegation in Berlin in promoting acceptance of the "obligatory response" clauses, as they were described contemporaneously by the New York Times,³¹ and despite strong urging from the U.S.

Navy, the Senate Foreign Relations Committee was not willing to give its immediate ratification. Private companies testified that the convention might stultify "the free inventive American spirit as it evoked new wonders from the radio art" and that it "did not correspond with the continuous policy of the United States of refusing to accept international fixation of rates". The Senators decided that the Convention's provisions were "unjust, impracticable, hampering, premature, academic, unconstitutional"

29. Naval War College, op.cit., p.146. The quotation is from the 1903 Final Protocol.

30. Naval War College, ibid, p.149.

31. Keith Clark, op.cit., p.219, described the issue 25 years later as one of "freedom of the air", a term which does not appear to have been in existence in 1906 although as we shall see it was to become a rallying cry in the years after World War II.

and they pigeonholed it.

But the British Marconi Company's monopoly of the flow of maritime messages, while a temporary advantage, was slowly eroded by other conditions largely beyond its control. Competition from wireless companies based in other countries was a factor. The U. S. Navy converted to a German system, the Slaby-Arco.³³ Between 1907 and 1912 some 250 ships of American registry installed equipment purchased from the U.S.-based United Wireless Telegraph Co.³⁴ In 1910 the 61st Congress took a step which must have seriously undercut the Marconi Company. It required all ships to be radio-equipped and specified that such equipment would not be legal unless "the company installing it shall contract in writing to exchange....messages with shore or ship stations using other systems of radio-communication".³⁵ Further, as radio-telegraph communication improved, its uses had expanded beyond maritime applications, especially into the area of news transmission by the Associated Press, United Press and the New York Times, the latter erecting its own radio station on shipboard in the New York harbor in order to obtain early news from incoming ships.³⁶

32. Keith Clark, ibid, p.223.

33. Archer, op.cit., p.63.

34. Herring and Gross, op.cit., p.78

35. Frank J. Kahn, ed., Documents of American Broadcasting, New York:Appleton-Century-Crofts, 1972, p.6.

36. Herring and Gross, op.cit., p.88.

Thus by 1912 there had arisen so many new problems affecting international radio transmission that Great Britain itself called a follow-up conference to the Berlin gathering. Only signatories to the 1906 Convention were eligible to attend the London meeting and government and private interests in the United States were both determined to be present. Accordingly the Senate Foreign Affairs Committee renewed consideration of the dormant 1906 document, recommending it in April, just days before the Titanic disaster was to demonstrate for the whole world the folly of the nations and the monopolias in their long and stubborn resistance to rational planning and use of the life-saving capabilities of wireless.

By its belated ratification of the 1906 convention, the United States became a full-fledged member of the International Radiotelegraph Union, breaking the long-established tradition set by the telegraph industry, which had kept the United States apart from the other industrializing countries. Possible factors affecting this reversal could have included the strong pro-treaty military-naval interests which were hardly existent in 1875; the underdeveloped state of the radio industry, not yet concerned about protecting its economic interests; and the fact that radio, unlike telegraphy, entailed no rate structure. No doubt there was also a sensitivity to the public outrage over the Titanic. In any case, the U.S. sent a delegation of 12 to London, claiming six votes for the United States proper and six more for the U.S.

overseas possessions including Alaska, Hawaii, the Philippines,
Puerto Rico, and the Panama Canal Zone.³⁷ Although the convention
rules allowed "mother countries" this type of representation, the
six extra U.S. delegates were turned away on a technicality:
insufficient advance notice.³⁸ In the event, the issue of the
eligibility of delegates paled under the impact of the Titanic
disaster, which hung over the conference affecting every
decision. Quick agreement was reached on the obligatory exchange
of messages, both ship-to-shore and ship-to-ship.³⁹ Much that
had been decided at Berlin in 1906 was reenacted, including
designation of the Conference as the legislative organ of the
newly created International Radiotelegraph Union. The already
existing Bureau of the International Telegraph Union in Berne was
designated as the administration for the newly created
Radiotelegraph Union. The completed treaty was soon ratified by
the U.S. Senate and the internal legislation necessary to comply
with both the 1906 and 1912 conventions was embodied in the Radio
Act of 1912. This Act required all U.S.-based radio stations

37. Keith Clark, op.cit., p.225.

38. The rule allowing extra votes to countries with colonial
possessions was abolished at the 1973 plenipotentiary session of
the ITU, an action which was no doubt seen by former colonial
powers as part of the alleged ITU politicization. See George A.
Coddington, Jr., "The Politicization of the International
Telecommunications Union: Nairobi and After", in Vincent
Mosco, ed. Policy Research in Telecommunication. Norwood, N.J.: Ablex
Publishing Corp. 1984.

39. Keith Clark, op.cit., p. 175.

transmitting across state or national boundaries to register with
the government.⁴⁰ It also restricted radio transmissions by
permitting the use of only those portions of the radio spectrum
agreed upon at the Berlin Conference.

Not unexpectedly, resistance to this new form of government
regulation affected the drafting and subsequent interpretation of
the U.S. Radio Act of 1912. One requirement of the international
agreement was that signator states were to regulate radio within
their national boundaries, a position which found little support
among U.S. policymakers. So while the new law which they wrote
appeared to authorize radio transmission only if the operators
had registered and received a license, the lawmakers insisted
that this was in no way to be understood as implying any
discretion on the part of the licensing officer (who was to be
the Secretary of Commerce and Labor) to withhold licensure. "The
Congressmen provided commentary iterating their intention that
'it is compulsory with the Secretary of Commerce and Labor that
upon application these licenses shall be issued'".⁴¹ Thus the
appearance of good faith regulation was accomplished at the same
time that it was made meaningless.

While the beginnings of a system of international regulation
for broadcasting were now discernable, the events of world

40. Kahn, ed. Documents, op. cit., p. 8-9.

41. Ibid.

history were to have a major accelerating effect on the process, as will be discussed in the next section.

SECTION 3 -- WORLD WAR I AND ITS AFTERMATH

The growth of capitalist states and within them the proliferation of systems of radio communication was profoundly affected by the disastrous war of 1914-1918. As in the past, warfare and war preparation served as tremendous stimuli to scientific and technological development: the interminable patent litigation could be peremptorily suspended, permitting scientists and technicians to work cooperatively; private uses of the air waves could be prohibited, permitting unimpeded government use and large-scale planning; research could be undertaken on a very large, planned and centrally-controlled basis with ample government support; and dramatic new experiments were possible -- for example battlefield communication by radio, and the unexpectedly effective radio dissemination of Wilson's 14 points. As a result there were notable advances in the uses of the electro-magnetic wave transmission processes. At the same time, the war brought about significant realignments in the power and influence of nation-states, changes which were reflected in the prolonged and complex post-war negotiations undertaken to

reestablish and stabilize world trade and order. A review of the post-war politics of international radio control and the development of radio as a mass media will provide useful history for the present-day controversy over global broadcasting from space.

Among the dozens of issues dividing the peace conferees at Versailles was the question of how to deal with the valuable German transatlantic cables, which had been taken over early in the war, one by the British and one by the French. (The British had cut both of the German transatlantic cables the day after the war started,⁴² evidencing not only their accurate intelligence service but also their concern at the possibility of transmission of German propaganda to the Western hemisphere.) There were tangled ramifications to the Versailles radio negotiations, among them the hostility of U.S. interests to the British Empire's longstanding domination of world cable traffic, and the strong suspicions of American businessmen that their British rivals could and did gain access to information about their plans when cable messages had to pass through foreign connection points.⁴³ It was the general belief among United States negotiators that

42. Sidney Rogerson, Propaganda in the Next War. London: Geoffrey Books, 1938, p.100.

43. Ray S. Baker, Woodrow Wilson and World Settlement, 3 vols. Garden City, NY: Doubleday, Page and Co., 1922, p.426 vol.3, and p.470, vol.2, in a cable sent to President Wilson from Postmaster General A. S. Burleson on March 14, 1919.

the pre-war cable system had "been built up in order to connect the old world commercial centers with world business" and that now was the time to develop "a new system with the United States as a center".⁴⁴ There was also a growing American awareness that the new potential of radio might, if properly developed and controlled, be used to undercut if not destroy the huge advantages of cable, hitherto so valuable to the Europeans, especially the British.

Evolving out of these considerations came a U.S. policy which favored returning the captured cables to the Germans: "a divided control is more easily shaken than a monopoly"⁴⁵ explained historian Ray Stannard Baker in his 1924 account of the peace negotiations. This proved wholly unacceptable to England and France and very shortly the situation took a new form when Wilson, counseled by Walter S. Rogers, proposed that the cables be held jointly, under international control or trusteeship and further, that "the Five Allied and Associated Powers shall call as soon as possible an International Congress to consider and report on all international aspects of telegraph, cable and radio communications with a view to providing the entire world with adequate communication facilities on a fair, equitable basis."⁴⁶

44. Ibid, vol.3,p.426.

45. Baker, op. cit.,vol.2,p.479.

46. Ibid,vol.2,p.483.

In the event, the recommendation for joint allied control disappeared, but, in an action that was to significantly affect post-war communications development, the negotiators did adopt the proposal to call an International Congress.

A word should be said about these proposals of Walter Rogers. They are unusual in the history of U.S. electronic communications, which as we have seen in the case of wire and cable were strongly oriented to private development for profit. Rogers, a lawyer, businessman and soon-to-be publisher (of the Washington Herald in 1919 and 1920) developed a plan for Wilson's consideration which appeared to promote international cooperation while at the same time serving American newspaper interests by effectively undercutting British cable power. High cable rates for transoceanic cable transmission of news despatches were a concern of the owners of newspapers. Rogers proposed that the United States and other countries join together to internationalize radio, a new technology which "goes beyond the possibilities of private enterprise"

and "the interest of any one nation".⁴⁷ He told Wilson that this would help promote understanding of the President's cherished League of Nations by increasing the flow of news about the League; another benefit would be that "a comprehensive plan can be devised for transmitting commercial press messages at low, uniform rates." An important advantage to be realized by creating this new, internationally controlled non-commercial radio channel would be the effect on cable companies, which would thereby be introduced to "fair competition", thus affording them⁴⁸ "the regulation now so lacking over cable rates and services". Rogers argued that this would not injure the cable companies, because it was better than the alternatives, which he perceived as being either "going into the radio field" themselves, or "withstanding a disorganized and possibly demoralizing⁴⁹ competition".

The struggle between the cable companies and the growing radio interests complicated the intense British-American rivalry for ownership and control of the existing and envisaged world communications network so essential to the expansion of capital. Some historically important people were present in the halls of Versailles, including Marconi, whose British Marconi company was

47. Ibid, vol.3, p.432, (from a memorandum to President Wilson from Walter S. Rogers).

48. Ibid, p.432.

49. Ibid.

at the center of the struggle, and Admiral W.H.G. Bullard of the U.S. Naval Communications service, and his superior, Secretary of the Navy Josephus Daniels, who, in keeping with Navy tradition, was "a militant advocate of government ownership of wireless communications".⁵⁰ Back in the United States, though not far

behind the scene, were the top men of the electrical communication industry, most prominent among them being Owen D. Young, head of the already powerful General Electric Co. GE's impregnable position grew out of its ownership of the patents for the Alexanderson Alternator system, a revolutionary new device for extending radio communication, which the British Marconi Company was determined to buy, and which if they did would thereby solidify their world communication supremacy. The U.S. Navy was intent on preventing any such development and in April, 1919, government negotiations led to an agreement by Young not to make the sale if in exchange he might receive the government's blessing for the formation of a new GE subsidiary, the Radio Corporation of America. This was accomplished, thus cutting off the British threat as well as the danger that the Navy would succeed in extending government ownership and control of radio into peacetime, as reportedly supported by President Wilson and Secretary Daniels.⁵¹ To assuage Secretary Daniels' concerns, Young is said to have argued that a monopoly is objectionable

50. Archer, History of Radio, op.cit., p.167.

51. Archer, op.cit., p.157.

only if it may be said to control a product or service, which could not be the present case since the proposed new corporation would be in competition with the cable monopoly of Great

⁵²
Britain. Young also guaranteed that "control of the proposed corporation would rest in American hands" and that " a representative of the Navy Department would be named to the board
⁵³
of directors". These long negotiations ran concurrently with

the Paris peace talks, also with the difficult months of Wilson's losing campaign for U.S. membership in the League of Nations, and with Harding's victory in November, 1920 and the postwar reestablishment of the power and autonomy of business and industrial groups within the American political and economic structure. By March of 1920 all radio stations had been returned by the U.S. government to their private owners, RCA had transmitted its first messages to England (at 17 cents per word compared with the then cable rate of 25 cents per word) and young David Sarnoff had submitted a memo to his boss Owen Young anticipating the marketing of \$75 million worth of "radio music
⁵⁴
boxes". Understandably the accounts of the genesis of RCA are recorded differently depending on who is writing the history and under whose auspices. To the sympathetic radio historian Gleason Archer and of course to Young himself, who was to describe it

52. Archer, op.cit., p.170.

53. Archer, ibid.

54. Archer, op.cit. p.200-201.

many times for the popular press, it was an act of patriotic sacrifice. For the owners of General Electric and its new offspring RCA it opened the way to incredible profit and power.

The Growth of the Radio Business

Another major arena for the international politics of radio and cable during the early post-war years was South America where U.S. and European companies were engaged in keen competition to capture the Latin countries' communications systems, and the markets which lay behind them. Elihu Root, Jr., touched on the issues in a Congressional hearing in May, 1921:

The war has now given this country an opportunity which may not occur again for another generation of getting back on the sea and resuming participation in the carrying trade, and the country has made a very great effort to take advantage of that opportunity....

The British are bound to make every effort to prevent that attempt of ours from succeeding, and they are past masters in the game of competition at sea. It is not a matter of ships alone. It is a matter of a good consular service, of coaling stations, of branch banks, and it is a matter of communications, and in that latter category the most important element is the cable. They understand that they have got to get to the ports where they trade with their own cables, and I do not blame their company for making the hardest fight

55. Leslie Bennett Tribolet, The International Aspects of Electrical Communications in the Pacific Area. Baltimore: Johns Hopkins Press, 1929, p. 44, quoting from U.S. Congress, House Committee on Interstate and Foreign Commerce, May 10-13, 1921, 67th Congress, 1st session, Wash. GPO, pp. 112-116.

possible to keep the Americans out of the east coast of the South American communication situation.

In the private corporate negotiations over South America which occurred, there is a curious parallel with the Versailles conference of nations, with Woodrow Wilson's role being played by Owen Young of General Electric, and the roles of the Allied leaders being performed by the heads of the British Marconi Company, the French Wireless corporation, which was controlled by⁵⁶ the British, and the German Telefunken Corporation. They gathered in Paris, in August, 1921. Young wanted to prevent the British from achieving a communications monopoly in South America and what he proposed was that the four corporations pool their existing South American holdings as well as their patents, and proceed on a share and share alike basis "to cooperate in the establishment and operation of such a number of such stations in South American Republics as may be necessary for the handling of the external communication in the best and most efficient⁵⁷ manner". The negotiations were difficult and as Young told it later, he only won out by threatening to make a separate pact with the German Telefunken Corporation to which the British and French were strongly opposed. One sympathetic historian asserted⁵⁸ in his account that the consortium's provisions insured

56. Archer, op.cit. p.232.

57. Archer, op.cit., quoting from the final agreement.

58. Tribolet, op.cit., p.61.

against discrimination in the matter of "freedom of communication" by virtue of the fact that the agreement required that the chairman of the new consortium was to be a U.S. citizen, selected by RCA, and that he was to be vested with veto power over any board decision. This, the historian opined, carried "the principle of the Monroe doctrine into the field of communications," which he said was one of the original goals of
59
Owen Young. Neither this historian nor any others commented on the absence of any representation from the South American countries in these negotiations over their "freedom of communication".

Few of the accounts of the negotiations reveal that at the same time that the Big Four negotiators created their consortium, they also agreed on the formation of an international wireless trust (known as the "Commercial Radio International Committee") allowing for the mutual use of each other's patents until 1945, thus providing each member undisputed control in his respective country in the field of domestic production of wireless
60
apparatus.

From the standpoint of internationally agreed-upon radio regulation it is to be noted that the new consortium of four private companies (the British Marconi, German Telefunken, U.S.

59. Ibid.

60. Tomlinson, op.cit., p.57.

RCA and the French Compagnie Generale de T.S.F.) was quick to adopt self-regulating principles, including specified⁶¹ wave-lengths for long-distance international communications. As for the companies' transmitting stations it was agreed that communications would not be exchanged with any companies other than the members of the consortium, thus reviving the principle of non-reciprocity which the British Marconi Company had used so effectively back in the 1900's.

For the new entrepreneurs of radio, having navigated the stormy waters of the post-war reconversion to private control of electro-magnetic communications, and the delicate business of protecting the "freedom" of the South American countries under the new communications regime of the consortium, there still remained the problem posed by the Versailles peace negotiators' adoption of Wilson's call for an International Congress "to provide the entire world with adequate communication facilities on a fair, equitable basis". Although Wilson and what he stood for had been replaced by Harding, preliminary planning sessions for such a convention were duly held in Washington and Paris, in 1920 and in 1921. It will be recalled that the telegraph companies had succeeded in keeping the United States out of the International Telegraph Convention. Although the U.S. Senate had finally, in 1912, ratified the convention establishing an

61. Ibid.

International Radio Union, it had included a reservation to the effect that "it could take no action in the matter of tariffs [i.e. rate-setting] as radio telegraphy was conducted in the U.S. by private enterprise."⁶² This same objection was raised in 1920 and 1921 at the preliminary planning sessions for the projected post-war International Congress. American private companies opposed the idea of a treaty or convention which would appear to vest their government with power to set telegraphy rates. The⁶³ historian Tomlinson described the situation:

The United States was unwilling to impose [these provisional] on private companies because its Constitution did not "permit". The United States' proposal that this [exclusion of U.S. companies] be effected through the adoption of a separate protocol was more than the other powers were prepared to accept.

In a footnote Tomlinson adds: "The attitude of the American Companies against government regulation of rates is well known. It is possible that the election of November, 1920, had some influence on the position of the government in its support of the⁶⁴ position of the private companies." The upshot was that no international conference was held.

What was at the heart of this position? Was it simply the

62. Tribolet, op. cit., p. 11.

63. Tomlinson, op. cit., p. 48.

64. Ibid.

question of government control versus private enterprise that many historians make it? But the British Marconi was also a private company. Why did it not show the same hostility toward "government intervention" in its vast and profitable network of world communications? There are several possible explanations. First the map of Europe with its many contiguous states made cooperation in radio, cable and telegraphy transmission an urgent necessity and one which could only be met by intergovernmental arrangements. A second reason for the difference might well have been the changing balance of capitalist power, as U.S. companies were catching up with and surpassing their British competitors; in their extremity it is possible that the British industrialists were not unwilling to find strength by working in coalition with their government. Third, the differences in beliefs and traditions may have been a factor. The European state of the twentieth century carried in it a memory of the state of the absolute monarchy which perhaps provided it with a prestige not yet acquired by the national government of the United States. Were the contemporary British corporation directors mindful of that long period of successful mercantilism and early colonialism when the interests of commerce and nation-state had been so effectively fused to accumulate "the wealth of nations"? Finally, how much of the difference was attributable to the different levels of capitalist development? A mature, aging British empire, whose ruling class had had long experience with the dangers of government control, had learned how to manage it

and even how to profit from it, whereas a still young and less experienced set of American corporate leaders perhaps feared the threats of populism, of anti-trustism, of collective action by citizens, of the spread of ideas about social democracy and socialism, and were unwilling to make any opening which might strengthen a government over which they might not always have full control.

SECTION 4 -- ADVANCE OF RADIO TECHNOLOGY AND ITS REGULATION

In the years following the war, radio was experiencing sudden and dramatic growth, facilitated partly by improvements in quality made possible by important war-time inventions, partly by skillful patent manipulation under the centralized corporate control of General Electric and its new offspring the Radio Corporation of America, partly by radio's own enormous attraction as a device which almost magically seemed to enlarge people's ability to talk with one another, and partly by its emergence as an extremely profitable commodity for manufacturers and sellers of equipment.

The special qualities of radio (as opposed to cable telegraphy) had a bearing on the emerging efforts to control, regulate and stabilize its use, both internationally and in the

United States. First, that radio was relatively new made it vulnerable to the possibility of government ownership. Roy Stannard Baker's comment represented the views of many: "In all cases [radio, cable and overland telegraphy] private operation for profit is as serious an obstacle, particularly so far as the United States is concerned, to effective international cooperation as are national trade rivalries". He also took note of the view held by Walter Rogers (see Section 3) who "believed it would be easier to get hold of the still developing radio business than of the established situation in other fields."⁶⁵

Further, radio's powers as a direct propaganda tool had become apparent to wartime leaders, strategists and producers; telegraphy assured secrecy and code protection and allowed for rapid transmission of information, but it had nowhere near the power of radio as a tool for influencing values, beliefs and attitudes.

Another point of difference was in the capital outlay requirements and earning potential. While wire telegraphy and especially undersea cables, had exacted huge capital investment, they had also served a paying clientele, of banks, businessmen, traders, colonial powers, press associations and elite private users. Radio transmitters and receivers were comparatively cheap and could be sold on a mass scale, permitting quick profits. (In

65. Baker, op.cit., p.487.

these early years little notice was given to another aspect of this difference, that is that mass use of radio represented a potential democratizing force which, unlike telegraphy, might affect the many who were not direct participants in the accelerating growth of industry. It is a topic we will consider in a later chapter.)

Another significant difference was that of invisibility. Undersea cables and their landing terminals were openly identifiable and their location frequently required bilateral negotiations between nations (recall President Grant's message), whereas the radio waves could travel anywhere, unrestrained by governments.

Worth noting too was the vast change which had occurred in power relationships. The world telegraph network had been laid out around a central control point: London. Radio emerged at a time when such single-nation monopoly control was no longer possible.

It was these new factors which were to influence the post-war period of radio development, as Congress and the growing communications corporations took up the questions of how to shape, finance and control radio, how to deal with the emerging international regulation, how to promote and gain from consumerism, and how to understand and mediate the social unrest which followed on the economic convulsions of 1929.

Historically, 1927 proved to be a decisive year for U.S. corporate radio interests as they continued to defend their relative autonomy in the face of new pressures for regulation, arising on both the domestic front and internationally. The political question of how and in what way radio broadcasting would be controlled or regulated reached a temporary resolution in February, 1927 with the passage of the U.S. Radio Act. The industry owners were forced to accept the long-repugnant concept of government regulation largely because technical requirements of the radio spectrum made laissez-faire impracticable and unworkable. Competing stations, using the same frequencies, were obliterating each other's messages. From the early 20's the industry had attempted a kind of voluntary self-regulation, with Secretary of Commerce Hoover providing the semblance of a government arbiter. But in 1926 Hoover's approach had to be abandoned when the Attorney General ruled that the 1912 Radio Act made issuance of a "license" obligatory to all applicants thus ending any exercise of discretionary power by the Secretary. The opinion was in line with two court decisions, made in 1925 and 1926. The chaos that resulted, as radio stations proliferated and competed, brought President Coolidge to the rescue on Dec. 7, 1926 with a proposal for legislation which would assign the function of deciding "who shall exercise the privilege of radio

transmission" to a "board, to be assembled whenever action on
such a question becomes necessary".⁶⁶ Legislation had been under
consideration long before Coolidge's intervention, and by
February, 1927 the government regulation bill had become law.
That the regulatory commission was only to be assembled as needed
is an indication of the limited nature of the new regulation. Of
further significance was the absence of any serious consideration
of the possibility of radio becoming a publicly owned and
operated educational service. Finally, it is to be noted that
passage of this first piece of major radio legislation occurred
only months before a long-planned international conference on
radio; clearly the new U.S. law was intended to set the
parameters for any international agreement which might be shaped
at the upcoming conference.

If the first frontline for corporate radio interests in 1927
was the Congress and its actions on government regulation, the
second crucial event of the year was the long delayed post-war
conference on international aspects of radio communication. We
have seen how, within the United States, new and accessible
technology permitting the proliferation of radio transmissions
had forced enactment of a modicum of government regulation.
Similarly on the international level it was the new technology,
specifically the emergence of shortwave broadcasting, which was

66. Kahn, Documents of American Broadcasting, op.cit., pp.32-33.

pressuring the nations and corporations to update their arrangements for regulating international radio communication. Many of the complexities were directly related to the shortwave technology, "discovered" by the amateurs when they had been squeezed out of the other wave bands: RCA quickly spotted the potential competitive danger should shortwave become integrated with the hugely popular telephone, to the profit of ATT; and rapid progress was being made both in the U.S. and Great Britain in setting up shortwave transmitters and in developing know-how in the use of this new capability for worldwide low-cost signals, something that had once been thought could only be accomplished by using highpowered long-wave transmitters.

Another urgent reason for the conference was the appearance in February, 1927 of the first transatlantic radio telephone service, transmitting voice sound rather than the dots and dashes then still in use on the undersea cable. This advance in technology, which was engaging the attention of RCA, ATT and ITT, represented a substantial threat to the cable interests.⁶⁷

Another factor that helped bring on the International Conference was the economic resurgence of Great Britain, France and Germany and the growing competitive interest of the radio manufacturers

67. Robinson, p.162. Only in 1956 was undersea cable developed to the point where it could transmit voice sound.

in those countries.

The United States was host to the 1927 international conference, which opened in October at the building of the U.S. Chamber of Commerce with an address by President Coolidge.⁶⁹ Planning had been underway for two years, especially by groups and interests in the United States. As evidence of the close working relationship between government and the industry it should be noted that the official U.S. delegation included Owen D. Young, president of GE. Conference rules also permitted the attendance of private company representatives in an advisory capacity⁷⁰ and there were scores of them. Interested groups of observers also held meetings in Washington concurrently with the International Convention, including the Radio Division of the National Electrical Manufacturers Association, and the International Association of Wireless Scientists. In Congressional hearings held in 1928, William R. Castle, Assistant Secretary of State, said in his description of the 1927 International Radio Convention that "the private companies

68. An international "juridical" conference of private radio entrepreneurs in Paris in 1925 considered some of these issues and declared among other things that "the air is free", perhaps an indication of a growing concern about further regulation. New York Times, April 4, 1925.

69. See Keith Clark, op.cit., pp. 226-227.

70. Clark, op.cit., p. 195.

71

practically wrote it". Delegates to the conference came from 80 countries and predictably the chief difficulty was that the companies in the United States did not want a document which would further broaden any appearance or reality of government control over them, while the delegations from most of the other countries viewed state control as necessary in order to maximize equitable use of the medium. Although the telegraph companies had for a long time been successful in keeping the United States from signing the International Telegraphy Convention, they feared the possibility of a merging of international telegraphy regulation with international radio regulation and wanted to forestall whatever change in their status such a merger might mean. American radio and telephone companies temporarily buried their inter-corporate differences in order to exercise a united front against any treaty obligation which would appear to mean public intervention in their operations. The already adopted U.S. Radio Act of 1927 was as much regulation as was needed; should their transmissions spill over beyond national borders into Canada, the problem could be dealt with by voluntary negotiation between broadcasting companies, they argued. Hoover no doubt spoke for them when he urged the convention to adopt regulation but to "put no harness on freedom".

72

71. Quoted in Keith Clark, op.cit. p.195.

72. The New York Times, Oct.9,1927,p.11,Sec.9,col.2.

As for the general need for an international radio agreement, a parallel could be observed between the situation which had existed in the United States before the passage of the 1927 Radio Act, and the situation which confronted the delegates to the International Conference. As worldwide radio broadcasting had grown, stations which transmitted across national borders had, in accordance with the London 1912 agreement, registered their use of a particular wavelength with the international secretariat of the International Radio Convention. But there was no mechanism either for assigning or withholding slots; it was a system of first-come, first-served. Thus the companies or states with capital and technique were preempting the limited spectrum space, to the disadvantage of smaller or less advanced countries. Further, messages were often obliterating each other. Resolution of the problem called for international regulation but the U.S. companies, which in effect controlled the convention, held out for the barest minimum. The U.S. put forward virtually the same position that had been unacceptable to other countries in the failed planning sessions of 1920 and 1921 (see Section 3 of this chapter).⁷³

Specifically, while the U.S. companies agreed to an international allocation of specified frequencies for specified

73. See Keith Clark, *op.cit.*, p.196 for State Department commentary on the agreement; Tomlinson, *op.cit.*, pp.65-66 provides additional detail.

services (marine, aviation, long-distance telephony, police, etc.), they also retained the provision "that each country was left free to assign any wavelength to any service, as long as it did not cause any interference with any service of another

⁷⁴ country". This extended the first-come, first-served approach and left the problem of interference between U.S. international broadcasters and signals emanating from other countries to be negotiated, if and when it happened.

Understandably, the U.S. Senate's ratification of the convention proceeded smoothly. "The State Department could say that everyone was for it, that the United States Chamber of Commerce and the telegraph companies had endorsed it, and Senator Borah, chairman of the Committee on Foreign Affairs, could state that the Committee had not received a single protest against the

⁷⁵ convention". Joseph O. Chamberlain, writing in the American Bar Association Journal ⁷⁶ saw the convention as the international expression of the new national law, the Radio Act of 1927.

74. Tomlinson, op.cit., p.67.

75. Keith Clark, op.cit., p.230.

76. Joseph O. Chamberlain, "Radio Act of 1927", American Bar Association Journal, June, 1927, cited in Keith Clark, p.230. Chamberlain wrote that "On the basis of the Radio Act this country can enter into the necessary international engagements to protect the American share in what is necessarily a world method of the distribution of ideas....If the air is to be used successfully by radio, it must be on the basis of a world utility, regulated by a world public service commission through agreement of the governments."

That the carefully designed international regulations were unworkable is illustrated by the following 1932 statement of the British delegation (at the next international radio conference, held in Madrid): "[under the Washington agreement, a broadcasting station may] begin functioning in a wave outside the authorized band, with low power and without producing interference; subsequently it may increase its power and when we complain of interference, we are told that the public is accustomed to this service, and that it cannot be abandoned."⁷⁷

The long-range pattern of radio broadcasting development in the United States and of U.S. relations with other countries in the matter of radio regulation was set by the decisions made during the 1920's as outlined in the foregoing section. Officially the international convention in Washington was primarily occupied with the allocation of wavelengths (Wilson's call for an "equitable worldwide system of communication" having long since been set aside). But there was an underlying concern at work having to do with the authority of the capitalist state and the possible erosion of that authority which could occur should trends move in the direction of more extreme forms of democracy. Significantly, the Soviet Union was excluded from the 1927 international radio conference. As a signator of the 1912 London convention it was eligible to attend, but U.S. authorities

77. Quoted in Tomlinson, op.cit., p.159.

refused admission on the ground that it was not recognized by the United States. The Bolsheviks' vigorous embrace of radio as a tool for building socialism was another possible cause for unease. As the various potentials of radio communication had become apparent, including its attractiveness to millions of people, and its elusiveness in the face of authority, there had developed several levels of concern about getting it adequately harnessed. Navy and army personnel were anxious to retain as much control as possible for military use. The leaders of the major radio companies, GE, RCA, Westinghouse and American Telephone, had different perspectives depending on their major business emphasis (for example the telephone company was mindful of the danger which radio might pose to its huge long-line investments, whereas the radio companies feared ATT's technical and size advantages plus the already mentioned danger of a combined telephone-radio device) but they were all in agreement that popular control via government regulation would be dangerous to their companies' futures.

A third group, often alluded to in the official histories, was the amateurs. Though tiny in number (by the mid-thirties there were 75,000 amateur transmitting stations in the world, 48,000 of them being in the U.S.),⁷⁸ the amateurs had long been a problem for the dominant interests, both military and

78. Tomlinson, op.cit., p.107-108

industrial. Early in the twenties, because of their troublesome interference with the major users, the amateurs in the United States had been consigned to a virtually unusable portion of the spectrum. They experimented with it in new ways and thus, almost accidentally, furthered the development of shortwave. During the 1927 deliberations they came close to being banned entirely and were only assured permanent recognition as a result of intensive lobbying. Unlike the military and commercial interests, the amateurs were closely regulated: the new U.S. Radio Act required strict licensure for amateurs, including passing of specified tests; and restrictions were placed against political statements on the air, and on communication across national borders. As for the military, its use of the spectrum had been recognized in the earliest international allocations of the International Radio Telegraph Union by being specifically exempted from regulation, thus in effect giving it all of the spectrum which was not allocated to other services.

As we have seen, the general commercial broadcasters were brought under a form of benign regulation by the Radio Act of

79. Tomlinson, op.cit., p.108.

80. Art.51 of the ITU Convention states: "Members and Associate members retain their entire freedom with regard to military radio installations of their army, naval and air forces." From Harold K. Jacobson, "The International Telecommunication Union: ITU's Structure and Function", pp.51-52. In Global Communications in the Space Age: Toward a New ITU. John and Mary R. Markle Foundation and The Twentieth Century Fund, New York.1972.

1927 which in effect assured radio's already established status as a private enterprise operated primarily for the profit of its owners. As the dominant force in the Washington International Conference in 1927, the private companies helped write an international agreement that accorded them special status to continue to develop their use of the spectrum without restraints from other nations which might experience interference. A further decision of the international conference, to treat the Western Hemisphere separately from the rest of the world and allow it to make separate international agreements, appeared to protect the profitable radio relationships which U.S.-based companies were constructing in Latin America. It should be added that the new treaty allowed for mutual negotiation should interference occur, and contained a provision for compulsory arbitration although this latter provision has never been used. Perhaps most significant, is the fact that, by virtue of being an international treaty, the provisions embodied in it took on the character of "international law", including the principle and practice of allocating certain wavelengths for certain purposes, and since it was an action taken by sovereign states it established the working principle that it was states which were the agencies responsible for the control of the new technology of radio, with the notable exception of the United States, where a hybrid form of control was realized, combining limited state regulation with the privately operated radio business.

There were two more international radio conferences before the world's major powers found themselves again at war: Madrid in 1932 and Cairo in 1938. At Madrid the conferees effected a merger of the two international communications agencies, that is the one dealing with telegraphy and the one dealing with radio, forming what came to be called the International Telecommunications Union. The ITU's bureau in Berne became the official administration for the regulatory agreements. Continuing special arrangements were made for those countries which held to the "private enterprise" approach, thus exempting U.S.-based telegraph companies from rate regulation. The major contestation at Madrid was over allocation of slots in the by-then crowded bands which the 1927 Washington conferees had designated for medium wave broadcasting: 150 - 1500 kilocycles. A new difficulty at Madrid was the presence of the USSR. Since its exclusion from the 1927 Washington conference it had proceeded to allocate places on the broadcast spectrum to its various services with little regard for the international agreement made in Washington. A third problem was the increasing power of broadcasting stations, which was rapidly transcending the regulatory capacity of the ITU.

81. Tomlinson, op.cit., p. 152, explains that shortwave broadcasting had had the effect of enlarging the spectrum but for technical reasons it could not substitute for the medium and long waves.

82. Tomlinson, op.cit., provides an account of how these problems were dealt with, pp. 154 ff.

The Cairo conference made few major changes in ITU regulations but one action should be particularly noted: for the first time the conferees adopted compulsory worldwide allocation of specific frequencies for a specific purpose. That purpose was intercontinental airplane flight, for which 28 shortwave bands were exclusively reserved. The allocation was not for particular stations but for any station operating on a specified intercontinental air route, regardless of nationality. This remarkable collective decision setting clear limits on state sovereignty and corporate power recalls the origin of international action to regulate radio at the Berlin conference of 1903-1906. At that time too, the threatened safety of costly maritime navigation apparatus served as the spur to suspension of national sovereignty in the interest of international action to protect goods and lives.

During the years that the ITU was trying to cope with the new radio technology, another international body, the League of Nations, was writing a little known chapter of history on the

83. Another interesting sidelight is the history of "Radio-Nations", planned in 1929 in cooperation with the Swiss government, and inaugurated by the League in 1932. Its broadcasts included Assembly meetings, commission activities, etc. Planned for both shortwave and longwave transmissions it was able to use only the former, which sharply limited its audience; it "had to stop its regular programmes at the beginning of hostilities -- at the very moment when its voice was more than ever necessary". From Arno Huth, Radio Today: the Present State of Broadcasting, Geneva Research Center, League of Nations, 1942, p.137.

potential and control of radio messages between nations. The story is relevant to today's continuing arguments over the development and content of mass communication across national borders. In 1931, in part as a result of pressure from European broadcasting organizations, the eleventh Assembly of the League requested the International Institute of Intellectual Cooperation, one of its specialized committees, to study the educational aspects of broadcasting, including "all the international questions raised by the use of broadcasting in regard to international relations".⁸⁴ The Institute made preliminary studies and called together a committee of experts in early 1933. Over the next several years a draft convention evolved and the Council of the League convoked the "Intergovernmental Conference for the Adoption of a Convention Concerning the Use of Broadcasting in the Cause of Peace" to be held in September, 1936.

Dr. Arnold Raestad of Norway was president of the conference. His opening remarks outlined the intent of the draft: "it aims at reinforcing the rights of every state in relation to all other states in the matter of political broadcasting" and seeks to define "the rights and duties of the

84. Tomlinson, op.cit., p.227, quoting from the League of Nations Assembly Journal, 1931, p.115.

State in this particular field". He noted that:

Broadcasts have no material substance, and therefore cannot be stopped at frontiers; they can be directed towards any point in space; the political effects may be extensive and immediate; but they are not easy to foresee or to control or canalise at need.

On the basis of these views, the draft convention proposed a kind of radio disarmament treaty, "frankly universalist" even if at first only a small number of states were to adhere. The goal was to get agreement on principles of law which "will provide every state with solid foundations for the conduct of its own contemporary foreign policy through broadcasting".⁸⁶

Specifically the document required its signers to agree to prevent or prohibit the kind of broadcasting into another state which would incite a population to acts incompatible with the internal order or security of that state, or which would constitute incitement to war, or which were harmful to good international understanding or were known by the broadcaster to be false. It also bound the signators to "promote a better knowledge of the civilization and the conditions of life among the various countries, as well as their contribution to the organization of peace".⁸⁷

85. Ibid, quoting from the Minutes of the Conference, p. 229.

86. Tomlinson, ibid, p. 229.

87. Tomlinson, ibid, p. 230.

The Final Act, containing these recommendations, was signed by 28 of the delegations represented at the Conference and entered into force on April 2, 1938, having at that time been ratified by or acceded to by nine nations (Brazil, United Kingdom, Denmark, France, India, Luxembourg, New Zealand, the Union of South Africa and Australia).

Subsequent world history has shown us how fragile were the hopes of the Geneva diplomats as they sought to harness the growing war propaganda and the destabilizing uses of international broadcasting. However, as Tomlinson remarks, "that any convention of this character could have been concluded and put into effect during a period of continued political crises is in itself remarkable".⁸⁸ Few who are involved in the present debate over direct broadcast by satellite have made reference to this 1938 attempt to regulate broadcasting "in the cause of peace" although it has occasionally been cited in Soviet⁸⁹ literature.

Immense changes in the field of international radio and television broadcasting have occurred in the period since the onset of World War II, although fundamental patterns remain. Some of the political and regulatory developments will be

88. Tomlinson, *ibid*, p.233.

89. New Times, No.34, Aug.1972, p.29; also N.S.Biryukov, Television in the West and Its Doctrines, Moscow:Progress Publishers, 1981, p.196.

examined in later chapters as we look more closely at the controversy over international control of the direct broadcast satellite. First however it is intended, in the next chapter, to review the ways in which the phenomenon of radio, and later, television, have been assessed and analysed by recognized social theorists and intellectual leaders who have helped shape the ideology and outlook of American society.

CHAPTER III - THE SHAPING OF MASS COMMUNICATIONS THEORY

SECTION 1 -- RADIO AND SOCIETY

As radio came into wider use, both within and across national borders, it also became the topic of study by social theorists, and other intellectuals seeking to understand the potential of this radical new mode of communicating with people on a mass basis. It had arrived at a time of social turmoil, including the social upheavals of the post-war years. The disastrous world depression following on the crash of 1929 brought millions onto the streets, demanding improvement in their lives. Roosevelt had come on the scene in the United States, using radio to talk to people in a way no public figure had ever been able to talk to them before. The specter of the USSR was haunting the leaders and parliamentary bodies of the major capitalist nations. The persistence of its experiment with the idea of a "people's government" -- and its effective use of radio as a support force for mass outreach -- was attracting the interest, and sometimes enthusiasm, of activists in other countries change, and of workers who were experiencing the hardship of unemployment. In Germany, the ideals of liberalism

and social democracy had proved unequal to the ascendant fascism of Hitler and his supporters. There too radio was used as a devastating tool to weld national support for his supremacist plans.

It was in this framework that scholars, social scientists, publicists -- the ideologues of capitalist society -- began to look more closely at the new medium. The body of thinking about mass communications which took shape in the twenties and thirties provides a basis for understanding what confronts us today; it guided the textbooks and instruction of future leaders, shaped the direction of research, and provided rationales for the policies of government and corporations in the societies which engendered it.

After World War I, one of the first to take up the implications of the accelerating exchange of information was an English historian of science, G. N. Clark. Like others to come, he identified communications as a portion of "the world's accumulated capital, a part of those possessions which are used¹ for the creation of further wealth". The concept of "mass communication" had not yet come into use and Clark developed his own terms: "idea(idea-1) communication" (meaning exchanges between cultures), and "material communication", meaning exchange

1. Sir George Norman Clark, Unifying the World, London: The Swarthmore Press Ltd. New York: Harcourt Brace and Howe, 1920, pp. 10-11.

via boats and trains. Clark's particular purpose was to reflect on "the part played by the means of communication in international relations". From the start he was bound by his own culture (what he called the "present industrial civilization"), as is illustrated by the example he offered of the possible future effects of the wireless:²

One might draw a convincing picture of the 'special correspondent' of the future transmitting from his aeroplane to an attentive audience in the Alhambra Music Hall the full record, in phonographic and coloured stereoscopic moving pictures, of a riot in Punjab, or an earthquake in South America.

That it would be the British who would have sat quietly in the music hall and the Punjabis who would riot seemed only natural to Clark, and what else of interest besides an earthquake could happen in South America? It is an ethnocentrism that repeats itself in the literature.

Nevertheless, Clark identified many significant issues in his essay. He saw how the use of expanded communication could serve to homogenize culture and break down tariff barriers. He also identified the complex relationship between nationalism and the increasing flow of information: feelings of national unity could be intensified but at the same time such unity could heighten hostility toward the external. Clark also confronted

2. Ibid.

the question of the role of the state in facilitating or hindering communications development. He found that when states promoted the opening up of commerce or intercourse with foreign countries it was often "as mere auxiliaries of economic
3
'interests' within them". Clark did not foresee the coming of corporations which would spread across national borders: perhaps because of his observation of the then intense rivalries between British and U.S.-based companies he concluded that "there is no world in which frontiers are more important than in the business
4
world".

Finally, Clark's study evidenced another concern which was to underly the work of later social theorists and sociologists: the Russian revolution and the arrival on the world scene of a different kind of social system. He predicted an ever intensifying race by the nation-states -- capitalist and communist alike -- for the possession of sources of supply, a competition which could be affected favorably by improved international communications. "A new organization [the League of Nations] is to endeavour to solve both the old problems and the still greater new problems which must be solved unless the civilization we know is to be destroyed," he wrote, but then answered his hope with a gloomy judgement: the gigantic machinery

3. Ibid,p.70.

4. Ibid,p.72.

of communications is still "unknown or misunderstood or neglected or perverted", and in trying to use it we proceed much "like savages, who break up a mariner's compass to make jewels for their hair and tips for their arrows".⁵

In the United States the beginnings of communications theory and research were of course reflective of the political and social milieu in which the observer was situated, including such factors as the the relative isolationism in U.S. foreign policy; the continuing ascendancy of private industry and commerce; widespread hostility toward communism and the government of the USSR; and a measured awareness that new and not yet fully understood forces had been set to work as a result of the propaganda of the "War for Democracy". Not long after Clark's book, Walter Lippmann, American public opinion theorist, added a quite different dimension to the discussion with his well-known⁶ essay "The World Outside and the Pictures in Our Heads".

Lippmann's concern then was with the unbridgeable gap between people's views of things (events, actions, politicians, etc.) and what really exists. He emphasized the importance of fictions and symbols in human communication, and saw a triangular process of 1) the scene of action, 2) the human picture of it, and 3) the

5. Ibid.

6. Pp.21-47, in C. Wright Mills, ed., Images of Man: The Classic Tradition in Sociological Thinking. New York: George Braziller, Inc., 1960.

human response based on that picture. For Lippmann, what the human being does is based not on direct knowledge but on pictures⁷ "made by himself or given to him". This led him to an analogy (one which was to be used again by later social scientists) between the psychoanalyst -- who examines how the patient adjusts to a given environment -- and the social analyst, who examines the human being's adjustment to this pictures-in-our-heads pseudo-environment. Lippmann set out to do the latter, that is to find "how the political environment is conceived and how it can be conceived more successfully"⁸ or, put another way, why the pictures in our heads "so often mislead".⁹ His enumeration of distortion factors included a) the limits placed on peoples' access to facts (whether through overt censorship or through isolation or not enough time or too small a vocabulary, or fear of facing threatening facts, surely a broad mix); b) inner preconceptions or prejudices; c) the "interests" of an individual.

In the end, Lippmann recommended that there be "an independent, expert organization for making the unseen facts intelligible to those who have to make the decisions".¹⁰ He felt

7. Lippmann, in Mills, op.cit., p.33.

8. Ibid, p.34.

9. Ibid, p.35.

10. Ibid, p.36.

newspapers (then the only mass media) were not capable of performing this task but instead that it should be done by political science. In fact he found that the "perplexities of government and industry are conspiring to give political science this enormous opportunity to enrich itself and to serve the public."¹¹

Lippmann's emphasis on the professional experts and his faith in the possibility of a neutral assessment of the validity of unseen facts was in the tradition of Max Weber, who had traced out elements of this point of view in his essay on "Science as a Vocation"¹² Significant too is Lippmann's delineation of the process of communication as reciprocal, with the message-sender evoking an action response in the message-receiver (by constructing a picture in his head), although Lippmann did not develop the possibilities of this notion. Almost as an addendum to his essay was Lippmann's speculation on the difference between the power of the visual image (conveyed by film) as against the written word. He saw film as a new authority over imagination: "on the screen the whole process of observing, describing,¹³ reporting, and then imagining, has been accomplished for you."

11. Ibid.

12. H. H. Gerth and C. Wright Mills, From Max Weber: Essays in Sociology, New York: Oxford University Press, 1946, pp. 129-159.

13. Ibid., p. 44.

Lippmann's speculations were suggestive of the directions which were to be taken by social science and public opinion analysis but it was the early work of the American academician Harold Lasswell that began to set the parameters for sociology and political science as these disciplines turned to the study of mass communications.

SECTION 2 -- THE EMERGING SOCIAL SCIENCE OF MASS COMMUNICATIONS

Probably no other American social scientist of the twentieth century is more closely associated with the beginning and early development of studies in propaganda, persuasion, and mass communications (as these studies eventually came to be called), than academician Harold D. Lasswell. Lasswell's prolific writing career spanned more than 50 years. He wrote as a political scientist and from his first publication he showed himself to be a strong believer in the Weberian concept of the neutral scholar who could scientifically examine the workings of society, and interpret them for the general citizenry, including the policymakers. The social scientist, he said, is not just curious, he is analytical; his task is to discover and report,¹⁴ not to philosophize and reform.

Lasswell reached adulthood during the time of the first war and the social stress which followed on it. His first major work, published in 1927, dealt with propaganda technique in wartime, and in modern society. Although most of the book reads like a technical handbook on how to propagandize people,

14. Harold Lasswell, Propaganda Technique in the World War. New York: Alfred A. Knopf, Inc., 1927, p.5.

illustrated with impartially presented examples drawn from the experience of the war, the text does not entirely conceal Lasswell's underlying concern about certain disturbing social trends:

Certainly, there is reason for believing that the propagandist who works upon an industrialized people, is dealing with a more tense and mobile population than that which inhabits an agrarian state. Industrialism has apparently increased the danger from those secret mines which are laid by repression. The rhythm and clang of exacting machinery is no less characteristic of the industrial way of life, than the blazing array of billboards, window displays, movies, vaudevilles, and newspapers, which convey abundant and baffling possibilities of personal realization [emphasis added].

Lasswell was implying that because of this new condition -- that is, that industrialized people would become aware of the "possibility of personal realization" -- it is all the more necessary to understand and master the use of propaganda, the "new hammer and anvil of social solidarity", the "new antidote to wilfulness".¹⁵ "If the mass will be free of chains of iron, it must accept its chains of silver," he wrote, in what sounds almost like a threat. The "chains of iron" appear in this context to be an echo of the Communist Manifesto's mid-nineteenth century exhortation to the "workers of the world". Are the "chains of silver" a metaphor for the restraints of democratic

15. Ibid, p.191.

16. Ibid, p.122.

law? Lasswell set forth similar thoughts in a later essay, still
17
writing in his rather oblique style:

"The ever-present function of propaganda in modern life is in large measure attributable to the social disorganization which had been precipitated by the rapid advent of technological changes. Impersonality has supplanted personal loyalty to leaders [Weber's typology?]. Literacy and the physical channels of communication [radio?] have quickened the connection between those who rule and the ruled. Conventions have arisen which favor the ventilation of opinion and the taking of votes [polls? elections?]. Most of that which formerly could be done through violence and intimidation must now be done by argument and persuasion. Democracy has proclaimed the dictatorship of palaver, [echoing the Communist Manifesto's "dictatorship of the proletariat"?] and the technique of dictating to the dictator is named propaganda [playing on Marx's question, "who will educate the educator?" from Marx's Theses on Feuerbach].

At the end of his remarkable 1927 study of propaganda, Lasswell seemed to suggest that many of the political concepts of
18
contemporary society were a coverup for something else:

To illuminate the mechanisms of propaganda is to reveal the secret springs of social action, and to expose to the most searching criticism our prevailing dogmas of sovereignty, of democracy, of honesty, and of the sanctity of individual opinion. "Democracy (and indeed all society) is run by an unseen engineer" [Lasswell is quoting Anatole France.]

17. Lasswell, "The Theory of Political Propaganda", in Bernard Berelson and Morris Janowitz, eds. Reader in Public Opinion and Communication. Glencoe, Ill.: Free Press, 1950, p. 177.

18. Ibid, p. 222.

For the next several decades Lasswell continued to examine social groups and how they have been or can be propagandized, at one point extending his studies to include psychoanalytic theory, perhaps searching for those "secret mines which are laid by repression". In an essay on "The Theory of Political
¹⁹ Propaganda" he traced out his wellknown formula for the propaganda process (building on his already developed definition of politics as the process of deciding who gets what, when and how?): who carries it out, for what purpose, for what duration, toward whom, and with what results. It was a formulation which was to stand unquestioned in most subsequent studies of mass communication in the United States, as indeed was Lasswell's general theory of social science including his insistence on the validity of the neutral observer and his faith in the empirical method.

After the book on war propaganda Lasswell turned his method and his concern with social stability to a large scale study of the effects of Communist Party propaganda on unemployed workers
²⁰ in Chicago at the height of the depression. When first published, in 1935, the contents of the study categorized, counted and described the various techniques used by the Communist Party (songs, slogans, fund allocations, rallies,

19. Berelson and Janowitz, ibid.

20. Harold D. Lasswell and Dorothy Blumenstock, World Revolutionary Propaganda: a Chicago Study. New York: Knopf, 1939.

membership rosters, etc.) and concluded that "revolutionary activity varies directly with deprivation," although to ascertain its effectiveness would require further data. However, Lasswell's scientific stance as a neutral observer did not prevent him from offering an analytic description of four counterpropaganda forces which might serve to limit the appeal of what he called "world revolutionary radical propaganda".²¹ They were, first, the difficulty that agitators created for themselves by building on "unstable human material", "personalities with the deepest anxieties", neglecting recruitment of the employed in favor of attracting "a disproportionate number of persons of a type predisposed to play disruptive roles in organized political activity".²² A second force was the idea of nationalism. Lasswell noted that the Communist Party was making wide use of American symbols and practises and he emphasized the importance of how this tactic could be undermined by drawing attention to the Party's connections with the USSR.²³ A third counterforce he found was the concept of "American Individualism", which when invoked would tend to strengthen rank and file localism against centralism and outside influence. Fourth, he located what he called a possible paradox in the propagandizing efforts of the Communist Party in that as it sought to destabilize the

21. Ibid, p.11.

22. Ibid, p.300.

23. Ibid, p.318.

established order it could actually be seen to be dissipating insecurities, strengthening "defensive tendencies against what was conceived as the threat of Russian control of American life and bureaucratic control of the destinies of the proletariat

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itself." His suggestions resembled what was then being developed in Congressional hearings and by ideology makers in the Washington to combat alien ways of thinking, a consonance which harmonized with Lasswell's view of policy research. He believed fervently that it was the skilled professional who could and should advise the policymaker and he saw himself as engaged in building a science of propaganda, which called for the development of "its practitioners, its professors, its teachers, its theories", a science on which governments would increasingly
25
rely.

In 1935 Lasswell compiled a comprehensive annotated
26
bibliography on propaganda, working with the Advisory Committee on Pressure Groups and Propaganda of the Social Science Research Council. In his introduction to the bibliography, Lasswell broadened his

24. Ibid, p.341.

25. Ibid, p.46.

26. Harold D. Lasswell, Ralph D. Casey and Bruce Lannes Smith, Propaganda and Promotional Activities, Chicago: University of Chicago Press, 1935, republished in 1956 and in 1969.

definition of propaganda to encompass his whole political
theory: ²⁷ "Propaganda, in common with other social processes,
has its bearing upon the distribution of values, upon who gets
what, when, and how in terms of class, skill, personality and
attitude". In keeping with the social science method, he was in
effect seeking to free the term "propaganda" from its pejorative
war-related connotations; it was now to be understood the neutral
use of words and symbols for the manipulation of group attitudes
on controversial issues.

Lasswell also asked and answered the question as to why, in
the mid-thirties, there was such wide interest in the study of
propaganda. Recognizing its uses in war, in attaining and
preserving power, in matters of nationalism, religion and
commerce, he gave particular emphasis to the connection between
the study of propaganda and "periods of rapid social change".²⁸
"When history was recaptured for revolutionary purposes by Marx,
tactical questions connected with propaganda put the problem of
the connection between 'material' and 'ideological' changes in
the very center of social scientific inquiry."²⁹

In these early works Lasswell made little comment on
specific modes for propaganda dissemination, for example radio,

27. Ibid, p.27.

28. Ibid, p.21.

29. Ibid, p.23.

which was, during the decade from 1927-1937 experiencing such amazing growth and worldwide attention. However other scholars and students of society were becoming aware of the possible political and social impact of the new technology of electronic broadcasting. We have already commented on Herbert Hoover's involvement in the early promotion and eventual regulation of radio, during his years as Secretary of Commerce. In December, 1929, then completing his first year as President and confronted with the collapse of the stockmarket and possibly of the whole economy, Hoover appointed the Research Committee on Social Trends "to survey social changes in this country in order to throw light on the emerging problems".³⁰ The Rockefeller Foundation³¹ provided funding, experts were recruited from universities, and from 1930 to 1932 a broad range of different aspects of social life, including radio, were closely examined. The report on radio by Malcolm Willey and Stuart Rice was published in 1933. Mainly descriptive and statistical, it nevertheless can be read as a legitimization of the existing patterns of radio development

 30. Malcolm M. Willey and Stuart A. Rice, Communications Agencies and Social Life, New York: McGraw-Hill Book. Co., 1933, part of the series, Recent Social Trends, published by the President's Research Committee on Recent Social Trends, p.v.

31. For a general account of the Rockefeller Foundation's interest in the study of radio in a context of ensuring economic stability see Raymond Blaine Fosdick, The Story of the Rockefeller Foundation, New York: Harper, 1952, pp. 203-204. See also Edward H. Berman, The Ideology of Philanthropy: the Influence of the Carnegie, Ford and Rockefeller Foundations on American Foreign Policy. Albany: SUNY, 1983.

and ownership. For example: "By means of broadcasting, America has been turned into a vast auditorium into all corners of which a single voice can carry with dramatic ease and clarity."³² The image of an audience of millions passively listening to a skillful (professional?) speaker evidences no perception of other ways in which radio technology might have been used, for example by labor unions, cooperatives, farm groups, colleges, listener associations, ethnic groups. That such possibilities had in fact existed and disappeared during the early days of radio was remarked upon, with a table showing the decline in small stations owned by educational and church groups and the striking growth of commercial broadcasting. The authors comment that "...the natural play of competitive forces was bringing about changes in types of ownership."³³

Speculating on the social and political importance of radio broadcasting, the authors identified its likely effect on regionalism, including the widening of listeners' horizons to include, via shortwave, "auditory participation in distant foreign events as they transpire". "Social levelling" seemed another possible consequence: "It [radio] is the agency of mass impression which, in its utilization, is more free from racial and class discriminations. The negro who cannot enter the white

32. Willey, op.cit., p.186.

33. Ibid, p.195.

man's church, college or theatre can hear on his radio the white man's sermons, lectures and entertainment with complete equality;
34
social isolation is to this extent broken."

A section entitled "Mass Impression and Social Control" cited the same kinds of concerns which had turned Lasswell to his study of propaganda, specifically the possibility of "concerted response to common stimuli". "Social mechanisms now exist whereby it is possible to impress the people of an entire country simultaneously. Any use of these mechanisms inevitably involves
35
far-reaching effects upon social attitudes and behavior." In a passage frequently quoted in subsequent texts on communications,
36
the authors concluded:

A communication system fraught with greater possibilities for evil or for good has never before existed on so vast a scale. It is at once terrifying and inspiring; terrifying, because of the possibilities it opens for the accomplishment of selfish ends; inspiring for its potentialities of social self-control.

It is to be noted that while Lasswell and the President's Commission on Radio were attuned to the possibility of radio arousing large hitherto uncoordinated masses by means of propaganda, their writings showed no interest in the evolving

34. Ibid, p.204-5.

35. Ibid, p.209.

36. Ibid.

relationship between the state and radio as manifested in the debates over the radio legislation of 1927 and 1934, and at the international conventions in 1927, 1932 and 1938.

Lasswell's study of communist propaganda during the depression had led him to identify, as we have seen, how a heightened Americanism could serve to counteract the themes of communism if those themes could be successfully labeled as foreign. But the full implications of nationalism's relationship to the uses of radio broadcasting were left for others to examine. One who did was O. W. Riegel who, like Lasswell, was at the beginning of a long career of communications and propaganda analysis.

Tracing the growing conflict between nations, Riegel suggested that an important causal factor was radio. In the days of cable telegraphy's dominance, he said, 87 per cent of the undersea cables connecting nations and continents were controlled by Great Britain, the United States, France and Italy. "A condition of stability in the control of communications, with the Anglo-Saxon countries dominant, might have been maintained at least temporarily had it not been for the sudden rise of a new form of communication, radio".³⁷ Despite this destabilizing effect, Riegel saw in radio a potential for peace and a way to

37. Oscar W. Riegel, Mobilizing for Chaos; the Story of the New Propaganda, New Haven: Yale University Press, 1934, p. 37.

transcend nationalism, although it appeared to him that the apparatus of radio was increasingly being made "servile to the demands of nationalism".³⁸ No doubt alluding to the Radio Act of 1927 and the pending further proposals for federal communications legislation he found that "Even in the United States the rights of private enterprise in electrical communication are rapidly disintegrating and may shortly disappear."³⁹

Riegel aimed his strongest criticism at the developments in Madrid in 1932 where the International Telecommunication Union was first formed (combining the old Telegraph Convention with the Radio Convention). He cited several areas where U.S. interests had been jeopardized by or had confronted resistance from other countries. One was the matter of voting power (from the beginning, as we have seen, the major colonial powers, as well as the United States, were allotted extra votes so they could "represent" their colonies, though there was disagreement among them on how these allotments should be made). Another was the difficulty of allocating radio frequencies for specific

38. Ibid, p.17. Riegel tended to see nationalism as a menacing force characteristic of such countries as Germany, Italy and the USSR. When evident in the United States, as with the government's "sympathy and cooperation" in helping create RCA as "100 per cent national", it was approvingly benign.

39. Ibid, p.21.

purposes (Riegel alluded to the "threat of a European raid upon channels previously allocated to the United States").⁴⁰ A third problem area was the threat of government control implied by such activities as internationally agreed upon rate-setting (always a touchy problem, which as we have seen was resolved at the Madrid conference by excluding the American telegraph companies from the jurisdiction of international rate rules). Riegel was particularly concerned about "how much direct control the various national governments would be permitted to exercise over communications by censorship and confiscation of messages and interruption of international radio and telephone

⁴¹ communication". Arguing that "the well-being of the press everywhere depends upon the the free and speedy flow of news from all parts of the world," he wrote that this issue was ignored at the Madrid conference, except by the delegates from Great Britain, who were motivated by British banking interests, and delegates from the United States, who pressed the issue because of the dependence of "American newsgathering agencies" on "the free flow of news".⁴²

40. Ibid, p.61. He may have meant the Washington agreement of 1927 which left unresolved the problem of interference which would likely occur when U.S.-based transatlantic shipping companies used the same medium-range frequencies already in use by European countries.

41. Ibid.

42. Ibid, pp 64-66. This appears to be one of the earliest uses of the term "free flow" which was to become such a byword in later contestations over DBS and a "new world information order".

Riegel despaired over the political and economic restraints that endangered such a "free flow" and doubted the ability of the "average person" to cope with the complex flood of information and propaganda from foreign nations.

At about the time that Riegel was writing his Yale University Press book on the problems and trends of international radio another academician, Rudolf Arnheim, was analysing the same phenomenon, from a European perspective. The contrast is marked, especially with regard to the function of the state.⁴³

Wireless, in accordance with the different character of its technique, proved from the day of its birth to be so obviously a monopoly instrument concerning the whole of the community that in most countries it immediately came under the direct influence of the state.

Arnheim's book is concerned primarily with the aesthetic effects and differences between radio, film and the coming of television but his examination of what he called "Wireless and the Nations" set out some important political points neglected by Lasswell, Willey, Riegel and the handful of other United States social scientists who were then interesting themselves in the international implications of radio broadcasting.

That sounds made in one place might "be simultaneously

43. Rudolf Arnheim, Radio, New York: Arno Press, 1971, reprint of 1936 edition, p. 285.

reproduced in as many and as far removed places as one wishes, by disrespectfully breaking through boundaries of class and country" was to him "a spiritual event of primary importance".⁴⁴ This was so, he argued, because in our century old barriers had begun to come under fire; unavoidable decisions were pending. The distance that once separated individuals, fostering isolationism and reliance on self, was giving way to a new proximity, a condition which "demands collectivism", "promotes assimilation".⁴⁵ Especially advantageous for the movement toward community and away from separateness and isolation was the advent of radio "without prejudice", an advantage which Arnheim felt would be further enhanced with the development of television. Sound waves, he pointed out (as have so many others), pass by the customs officers, need no cable, penetrate all walls, are hard to jam. "They make the whole world instant participators in everything,"⁴⁶ and "the possibilities of keeping from a single country facts which the rest of the world are discussing, or of spreading lies about other countries, vanish, for the voice of enlightenment sounds from without."⁴⁷ Arnheim embraced the idea of listening as activity, interpretation, sifting: "The listener who hears in the evening within an hour the latest news from

44. Ibid, p.226.

45. Ibid, p.227-228.

46. Ibid, p.229.

47. Ibid, p.234.

London, Paris, Berlin, Rome, Moscow, and Basel..." can "build up an approximate opinion for himself." "Let us imagine a war in which every wireless listener remained in daily contact by television with the life in the interior of the other country," he wrote. What would become of the "distorted caricature", "the figure of the enemy", so necessary to creation of "a war-spirit?"⁴⁸

Arnheim's enthusiastic wishfulness was tempered with some negatives, including his recognition that as of the mid-thirties only the privileged had access to good wireless sets, although he made note that nowhere had there been any attempt to make wireless reception a privilege of certain classes, as might have happened had the invention been at the disposal of feudal states. Like Riegel, he was disheartened by the observation that while people could learn facts from other facts, they were not capable of forming conclusions and judgments. He was also aware of the bitter struggle between nations for access to the limited number of broadcasting frequencies, a struggle manifested in the various international radio conferences. Ineffective compromises had led to what we hear today, he wrote, voices sounding "loudly on top of one another", "an artistically forceful symbol of constant war in peace, of the deficiency of central

48. Ibid, p. 234-5.

49. Ibid, p. 238.

49
authority."

In his discussion of the relationship of the radio to the state Arnheim observed that since everyone potentially "can get everything that is transmitted, then conversely, everything that is transmitted must be arranged largely according to principles laid down by the government". Since it was a "universal commodity" it was "natural for such a matter to be either guided or even controlled by the state, like traffic, light and water,
50
and street repairs". At the same time, he contrasted the uniformity of radio in the authoritative state with the diversity of radio in the liberal state, citing as an example of the latter an event in the United States where "in July, 1932, the American Workers' Guild founded with a capital of \$120,000 a 25 kilowatt transmitter which, independent of the National Broadcasting and the Columbia Company, built up a purely socialistic programme in
51
which the negro workers were also conceded regular hours". He was referring apparently to WEVD (named for Eugene V. Debs), which in 1931 succeeded in reversing an FCC decision to take away

50. Ibid,p.239.

51. Ibid,p. 240-241.

52. Neither Archer's History of Radio after 1926 nor The New York Times Index for 1932 make any mention of this development. In Hadley Cantril and Gordon W. Allport's The Psychology of Radio, New York:Harper and Bros.,1935, there is a reference, p. 51, to "the Socialist station, WEVD" which won license renewal in 1931 after "considerable comment by the liberal press." They cite Federal Radio Commission Examiner's Report, No. 176,1931:Docket No.919,Journal of Radio Law,1932,2,119.

its license.

Arrheim was not unwilling to probe the idea of diversity and liberal pluralism, theories which he found wanting. Of what purpose to use the radio for the dissemination of endless points of view without an underlying philosophy, he asked. There were dangers hidden in the question. Certainly a "uniform" wireless could evolve by authoritative edict (which he rejected), but he argued that it could also arise as "the spontaneous expression of a unified national culture" and in fact, the authoritative approach could, in certain circumstances, represent "the

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transition" period. This unified national culture which could be achieved with radio, he called "organic" wireless, a phrase which suggests the theories of Emile Durkheim. Durkheim believed that as the division of labor became more extensive in an industrializing society, the need for social cohesion and solidarity intensified; this occurred because the shrinking sphere of work activity provided less fulfillment to the worker, bringing him to rely instead on the larger network of social relationships represented by society itself. Durkheim wrote: "In effect, on the one hand, each one depends as much more strictly on society as labor is more divided; and, on the other, the activity of each is as much more personal as it is more

53. Ibid, p.245.

54. Emile Durkheim, The Division of Labor in Society, New York: The Free Press, 1933, p.131.

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specialized." Durkheim called this form of solidarity
"organic" and believed that in modern society (Societes
Superieures was the term he used in his first edition in 1896) it
served to knit together all individuals in a common collective
purpose. Arnheim's "organic" wireless appears to provide another
mechanism for strengthening the social bond. With "organic"
wireless there would be no conflict among radio listeners as to
what viewpoints they wished to hear; the antithesis between
individual and community only occurs "when there is no real
communal life in being". Arnheim added: 55

If wireless serves a state whose politics are an
expression of the wishes and needs of the entire
people, one single line of policy, unbreakable at any
point there will be no more talk of "tendencies"
and "propaganda", there will be neither demands nor
condemnations, but everything that is said, done and
desired will be, involuntarily and imperceptibly, the
natural expression of the "commonwealth" and the
consequent trend of life.

Arnheim felt that radio moves toward this goal by its
uniform program which both presupposes and promotes such an
organic community. Specifically, it effects a leveling of taste
and education across class lines, bringing the essential and
characteristic art and thought to all.

The contrasts between the views of the European Arnheim and
those of Lasswell, Riegel and Willey provide a basis for

55. Arnheim, op.cit., p.246.

understanding the emerging American field of mass communications. Arnheim's (and Durkheim's) idea of contributing to a sense of world community was seldom manifest in the thinking of American social theorists. The methodology of the latter was based on acceptance of the given framework of values; they seldom questioned fundamental mainstream beliefs and were seemingly unaware of their own role as stabilizers and legitimizers. By the mid-thirties they were beginning to accept research support from the radio industry itself, as commercial communication interests sought to shape the theoretical context in which the social scientists worked, and the questions they set for themselves.

SECTION 3 -- TRENDS IN UNITED STATES MASS COMMUNICATIONS RESEARCH

In the United States, as we have seen, the social perspective on radio broadcasting was significantly influenced by the patterns of capitalist organization, which had clearly established the commercial profit-making role of radio. This influence showed itself in two ways. First, there was little interest in any critical examination of the fundamental assumptions which had been made about radio ownership and control. Second, absent such critique, there began to accumulate a varied body of empirical data and specialized research which concentrated on particular aspects of the broadcasting activity. Lasswell's famous formula for the meaning of politics, "who gets⁵⁶ what, when, how", appropriately amended to apply to broadcasting, "who says what, in which channel, to whom, with⁵⁷ what effect" provided the guideline for this large aggregate of American scholarship of which we will examine but a few key samples.

56. Harold W. Lasswell, Who Gets What, When, How. New York: McGraw-Hill, 1936.

57. Melvin L. DeFleur, Theories of Mass Communication. New York: David McKay, Inc., 1966, p. 124.

In 1935 Hadley Cantril and Gordon Allport, who were then just beginning to build their academic careers, published The Psychology of Radio with "gratefully acknowledged" assistance from NBC and CBS. The work illustrates many characteristics of American academia's social science approach to the processes and conditions of American society. As self-declared members of the discipline of social psychology, the authors specifically excluded the larger context and history of the phenomenon under scrutiny: "Our interest is not that of the reformer, the political scientist, or the legislator concerned with the moral or legal aspects of the problem. We are observers interested in understanding the psychological mechanisms involved." ⁵⁸ They are simply asking why people listen to radio and what happens to them when they do. It is for other disciplines to explore whatever events led up to the listening event, including the social conditions, political conflicts and economic structures.

The Cantril/Allport study set forth a further refinement of the themes of the radio report of the Hoover Committee on Recent Social Trends, emphasizing the "democratizing" effect of radio broadcasting in the United States, and observing that the radio voice, unlike previous modes of communications, creates "the impression of natural equality among men". ⁵⁹ At the same time,

58. Hadley Cantril and Gordon Allport, The Psychology of Radio. New York: Harper and Bros., 1935, p.48.

59. Ibid, p.19.

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it fosters conformity, homogeneity, even "mob spirit".
Further, because of the way "it promotes the interpenetration of
national cultures", it presses always toward internationalism,
toward "universal democracy", although "dictators and
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"nationalists" may pervert this "natural property".

Cantril and Allport identified another quality that in
subsequent writing is less openly described: "Radio is perhaps
our chief potential bulwark of social solidarity. It stems the
tide of disrupting influences...and tends to counteract
62
disintegrative forces."

Much of the book is devoted to reports of empirical research
on such matters as the differences between listening as part of a
real audience and listening at home (the former was found to be a
more powerful force for achieving conformity); effectiveness of
print versus radio (the latter was found to be more likely to
bring about concerted action); methods for successful
propagandizing (Lasswell's methods are repeated with the addition
of a comment on the particular susceptibility of children); the
wide variations in listeners' tastes and habits; and a
comparative study of the male radio voice and the female
(listeners preferred the former). The authors' claim to an

60. Ibid,p.21.

61. Ibid.p.22.

62. Ibid,p.24.

objective and scientific approach provided them with the appearance of weighing "both sides" of an issue, but generally they concluded by affirming the views of the broadcasters. For example, in the matter of alleged censorship, after citing numerous specific instances of internal censorship by the broadcasting industry, they concluded that "since no....minority group has been able or willing to present evidence of having been excluded from the privileges of broadcasting and since the sworn testimony [in Washington in October, 1934] shows a large amount of time, absolutely free of censorship, given without charge to such groups, it is impossible to avoid the conclusion that in general the broadcasters have been more than liberal in their support of the American traditions of free speech."⁶³

At the end of the book Cantril and Allport undergo an astonishing metamorphosis and become citizens and radio listeners instead of social psychologists. In these new roles they express misgivings about the fact that radio, "except in a few countries, has been allowed to grow up as a device to increase the profits of a few competing entrepreneurs or as an instrument to secure the status of dictatorial governments".⁶⁴ But their suggestion that radio should be freed "from the dictatorship of private profits" presents itself as a meaningless appendix given their

63. Ibid, p.59.

64. Ibid, p.270.

limited and superficial analysis of the political and economic system within which radio had developed. For example they set forth the view that broadcasting is itself but a derivative of the habits and attitudes of the majority of the citizens, in whom reside economic and political habits which function automatically ("seldom questioned and virtually unconscious in their operation")⁶⁵ in favor of "laissez-faire individualism" and in letting "competitive business alone". The two social psychologists find that "radio is not only a faithful interpreter of these attitudes but likewise it subtly intensifies those attitudes that support the status quo in broadcasting" by discouraging expression of dissent to such attitudes. Despite this rare moment of recognition of the role of the broadcasting industry in discouraging dissent, their general emphasis on the idea that the broadcast media in the United States is but a reflection of the listeners themselves ("They get what they want") was to grow into one of the central tenets of communications experts in succeeding decades of mass communications research.

In the mid-thirties another social scientist, Paul Lazarsfeld, began his career in the United States as researcher and evaluator of broadcasting. Like Lasswell, he was to figure prominently in developing a body of ideas and data about radio as

65. Ibid, p.269.

a social phenomenon. With funding from the Rockefeller Foundation, his Office of Radio Research was attached first to Princeton University, and later to Columbia, where it was energized by Lazarsfeld's own abilities and quick recognition of the research opportunities presented by American business

66 needs. An early Lazarsfeld publication was Radio and the Printed Page: an Introduction to the Study of Radio and Its Role in the Communication of Ideas. Work on the book began in 1937 as a result of a grant from the Rockefeller Foundation for the study of "the role played by radio for different groups of listeners". In the introduction, Lazarsfeld mentioned his close collaboration with Frank Stanton, Research Director of the Columbia Broadcasting System, who "guided the author [Lazarsfeld] in his first orientation in the field of American broadcasting". 67 As the title suggests, the purpose was to establish the lines of research which were deemed to require attention, for example whether radio reaches a different "strata of the population" than was previously reached by print; the problem of "information" versus "education"; what causes people to listen; and the effects

66. Martin Jay, The Dialectical Imagination: A History of the Frankfurt School and the Institute for Social Research, 1923-1950. Boston: Little, Brown and Co., 1973. Also Susan Buck-Morss, The Origin of Negative Dialectics. New York: Free Press. 1977, p.153, 166.

67. Paul Lazarsfeld, Radio and the Printed Page: An Introduction to the Study of Radio and Its Role in the Communication of Ideas. New York: Duell, Sloan and Pearce, 1940, p.viii.

68. Ibid, p.xvii.

of radio on reading, or in other words "who listens to what and

68

why". Absent from the list were proposals for research into aspects of the social and political context within which American radio broadcasting was embedded, or into alternative organizational and ownership patterns, including radio systems established in other countries.

After 300 pages of tables, charts, data and comparisons (example: Table 26, page 188, shows "Comparison between Total Amount of Listening and Amount of Listening to Boake Carter in Syracuse and Columbus"), Lazarsfeld speculated that radio was
69
unlikely to have profound social consequences.

Broadcasting is done in America today to sell merchandise; and most of the other possible effects of radio [he had previously listed these as decentralization of the population, strengthening of the prevailing political system, "standardization", and "mass formation"] become submerged in a strange kind of social mechanism which brings the commercial effect to its strongest expression. There are no sinister tendencies operative in radio; it works all by itself.

Recently republished by Arno Press, Lazarsfeld's book remains a recognized classic in the development of communications studies in America, a field in which the idea that "radio works all by itself" is still a major part of the mythology.

Also during the late 1930's the topic of broadcast

69. Ibid, p. 332.

communications was beginning to find its way into sociology textbooks, generally in relation to public opinion studies. The term "mass communications" was not yet in use. It did not appear in Lazarsfeld's book, nor had the key word "mass" been used by any of the analysts already discussed. A separate study would be needed to ascertain the precise moment when the terms mass media and mass communications came into usage in American sociology, a usage which in effect legitimized the word "mass", reclaiming it from its Marxist context of "the masses". It is possible that its emergence stems from Herbert Blumer's essay on the varying manifestations of large groups, "the classic modern statement of the concept".⁷⁰ Seeking to clarify the various terms and their deeper meanings, Blumer offered definitions of three kinds of collectivities: the mass, the crowd, and the public. The mass, he argued, was characterized by the heterogeneity of its members (coming from "all walks of life"), by their anonymity, by their being "physically separated from one another", and therefore by their lack of the kind of "unity that marks the crowd".⁷¹ The "mass" and "mass behavior" he saw as growing in size and importance because of conditions of "modern urban and industrial life", including radio, which "detached individuals from

70. DeFleur, op.cit., p.176.

71. Herbert Blumer, "Elementary Collective Behavior", p.186, in Alfred McClung Lee, ed., Principles of Sociology. New York: Barnes and Noble, Inc., 1939.

72. Ibid, p.187.

customary moorings and thrust them into a new and wider
⁷²
 world". Elsewhere in his monograph Blumer differentiates
 "propaganda" from "mass advertising", arguing that the former
 seeks to bring about "collective action" while the latter tries
⁷³
 to influence "individual action". It seems likely that the
 usefulness of these finely-honed definitions in depoliticizing
 the widespread consumer brainwashing which radio was then
 accomplishing, and in legitimizing the descriptive term "mass"
 helped bring about their diffusion into other academic and
 commercial studies. However it was not until after the war that
 books were published which specifically used the term "mass" in
⁷⁴
 relation to broadcasting communications.

During the war period the rules of neutral scholarship were
 suspended. Men like Riegel, Lasswell, Lazarsfeld, and Cantril
 all assumed research tasks directly related to the support of the
 nation in its war effort, analyzing and putting into practise
 radio and propaganda techniques which would stabilize society,
 contain dissidence and help strengthen national unity against the

73. Ibid,p.193.

74. Robert K. Merton, Mass Persuasion. New York: Harper, 1946;
 Zachariah Chafee, Jr., Government and Mass Communication.
 Chicago: University of Chicago Press, 2 vols. 1949.; Wilbur
 Schramm,ed., Mass Communications. Urbana: University of Illinois,
 1948; Joseph T. Klapper, The Effects of Mass Media. New York:
 Columbia University Press, 1949; Experiments in Mass
Communication,Vol.III of the Stouffer Studies in Social
 Psychology in World War II, Carl I. Hovland, Arthur A Lumsdaine,
 Fred D. Sheffield,eds.Princeton:Princeton University Press,1950.

enemy.

An important example of this form of policy counsel is a 1942 essay by Talcott Parsons, "Propaganda and Social Control". Already recognized as one of the foremost theorists of American social analysis, Parsons was seeking in his essay to provide guidance for policymakers, and reinforcement for fellow academicians and social scientists. The paper may be read as an instruction program for propaganda makers: it advised them to concentrate on the critical points of control in the social system, which are usually to be found in moments of interaction, as for example in the individual's search for approval of others; it proposed that they work through the institutionalized control mechanisms, for example the universities, and use appeals that would reinforce peoples' attachment to the prevailing system. It can also be read as an example of Parsons' theory of society, made clear in an extended analogy between a sick society and a doctor's sick patient. The doctor-psychiatrist is portrayed as the propaganda-maker, working from the vantage point of an institutionalized, and hence more prestigious, framework (for example, science, scientific culture, rational-liberal learning, association with universities). He confronts the patient/society who/which may be suffering from deviance or ideological distortion, perhaps as a result of one of the undesirable kinds of propaganda that undermine people's attachment to the system. Just as the real doctor treats a sick patient, so may the

doctor-propagandist administer a reinforcing counteractive,
performing a kind of "social psychotherapy"⁷⁵ for his
patient-society. Like the doctor, the propagandist must identify
with "the integrative elements", must work with existing
institutions, must be regarded as impersonal, and must accept the
"historic institutionalized values and cultural traditions".⁷⁶

Underlying Parsons' formula is his own deep faith in the
institutions of the United States, including medicine, religion,
the universities, government, law (only business is left out of
his enumeration), and his unswerving belief in the ability of the
professional to lead, heal, direct, in effect to rule over the
ordinary or non-professional human being. Weber had had a
similar faith in the professional, and Lippmann, as we have
seen.

In 1941 Harold Lasswell also spoke out on the role of the
"specialists in intelligence", as he termed social scientists
like himself.⁷⁷ Discarding his earlier emphasis on "propaganda"
Lasswell took up the subject of public opinion, concluding from
his analysis that it was in ever present danger of turning
against the public interest, which he equated with justice and

75. Talcott Parsons, Essays. Glencoe, Ill.: The Free
Press, 1949, p. 304. The essay was written in 1942.

76. Ibid, p. 305.

77. Lasswell, Democracy through Public Opinion,
Menasha, Wis.: George Banta Publishing Co., 1941, p. 165.

majority rule. To keep this turnabout from happening he recommended public discussion, including a policy of "free trade in propaganda" (a phrase which foreshadowed some of the debate over "free flow"). Another safeguard lay in paying attention to the community's social structure, Lasswell wrote, which meant providing "respectable" jobs for all, and reducing the gap between rich and poor. Essential to a vital and positive "public opinion", he argued, was full opportunity for participation in the system, and he proposed among other things, that corporations should assign shares of stock to such organizations as farmers associations, professional groups, and labor unions. But the condition to which he attached most importance was the service of the intellectuals: "Our specialists on intelligence -- including all who specialize in truth, or clarity or vividness (the journalists) -- are those upon whom democratic society must depend": "...it is upon them that we must rely for improving the social inheritance of the future." By then midway in his writing and teaching career, which ended with the posthumous 1979

78. Ibid,p.123.

79. Ibid,p.165.

80. Ibid,p.127.

81. Harold D. Lasswell, Daniel Lerner and Hans Speier, Propaganda and Communication in World History, 3 vols. Honolulu: East-West Center, University Press of Hawaii, 1979. Another posthumous publication was Lasswell's Human Rights and World Public Order: The Basic Policies of an International Law of Human Dignity, co-authored with Myres Smith McDougal and Lung-chu Chen. New Haven: Yale University Press, 1980 (1016 pages).

three-volume publication of Propaganda and Communication in World
⁸¹History, Lasswell seemed to be becoming aware of structural
deficiencies in the society he knew. But the self-imposed limits
of his social science method, which sought to reduce political
and social process to empirical formulae, held any development of
a critical theory in check. His faith remained that no crisis
was immune to technical resolution; answers were to be found in
"technical arrangements to provide an ever-expanding investment
⁸²
and an ever growing national income".

As has now been widely acknowledged, the war period brought
tremendous change in the relationship between academia and
government, the repercussions of which still deeply affect every
major educational institution and most of the recognized scholars
associated with them. World War I, as we have observed, brought
American capitalism into ever closer linkage with the state, a
synthesis which grew in strength as the interests of both state
and commerce expanded on a world scale. World War II accelerated
this process and added another dimension by structuring American
academic research and scholarship in such a way as to put it in
harness to serve the needs of the state. When the war ended, the
overt identification of scholarship with military-industrial
needs diminished as the disciplines achieved a form of
disengagement, reinstating more traditional rules of social

82. Lasswell, Democracy through Public Opinion, op.cit., p.167.

science. However, as before, the intellectuals, including the "specialists in intelligence" as Lasswell called them, continued to be profoundly affected by the events of the war, and the vast changes which it had brought about, a large number of which concerned the politics of international mass communication. Of direct importance were the significant technological advances in electronics and the use of the electronic spectrum, and, in the United States, the official recognition of the tremendous political power of radio as evidenced by the government's entry into government-sponsored broadcasting into foreign countries. Up until the war the protectors of the commercialized character of radio had prevented its direct use by the government to speak across international borders and it was only after much debate that United States government leaders established the "Voice of America" to match what Germany and the UK had been doing for more than a decade.

Other changes of wide scope were to deeply affect consideration of mass communications issues and the ongoing studies of international propaganda and its dissemination. Among these changes, the following are of particular importance for this study: the coming of a second chance, after the failure of the League of Nations, to construct a worldwide organization of states, the United Nations; the beginning of an unstoppable progression toward decolonization, bringing to an end the formal empires of the big powers; the experience of wartime partnership

between the allied capitalist countries and the Soviet Union and its abrupt undoing in 1946 with the re-emergence in the United States of deep antipathies toward the USSR; and world recognition of the United States as the most powerful and richest contemporary power. In the next section we will consider how the shaping of mass communications ideology proceeded under these circumstances.

SECTION 4 - MASS COMMUNICATIONS RESEARCH IN POST-WAR YEARS

Up until the sixties, the ideas of Lasswell, Lazarsfeld and Parsons continued to dominate communications sociology and research, augmented by the work of their students and younger colleagues as these rose to positions of influence in academic-government-corporate circles.

Lazarsfeld, still based at Columbia, to which he helped⁸³ attract substantial funding from the broadcasting industry, sought to fix the paradigms for what he now identified as "communications research". One problem which he identified in the 1948 introduction to his Communications Research, was the tension arising out of a greatly increased number of educated people confronting a situation where what they were hearing and seeing "was provided in the main by a number of large-scale,⁸⁴ fairly centralized communications industries". But while offering his readers a number of studies on listenership and

83. See Paul Lazarsfeld, "An Episode in the History of Social Research: A Memoir". Donald Fleming and Bernard Bailyn, eds. The Intellectual Migration, 1930-1960. Cambridge, Mass.: Belknap Press of Harvard University Press, 1969.

84. Lazarsfeld and Frank Stanton, eds., Communications Research: 1948-1949. New York: Harper and Bros., 1949, pp. xv.

readership (comic book influence, reading habits during a newspaper strike, magazine choices, the "deviant" listener as represented by the low-income person who votes Republican, or "the influential" who sways the opinions of others), he included nothing on the concentration of the "centralized communications industries". The only study in the book which explored communications in a systematic and historical way was one by Alex Inkeles on radio in the Soviet Union.⁸⁵ This incidentally, marked the beginning of what was to become a noteworthy trend in United States literature on mass media: though relatively unconcerned with such questions as how ideology in American mass communication and communications research was entwined with class tension and economic and political conflict, the experts showed remarkable competence and critical ability on this issue when⁸⁶ they turned their attention to the media of the Soviet Union.

The emphasis on studying how listeners in the United States

85. Alex Inkeles, "Domestic Broadcasting in the USSR" pp.223-289 in Paul F. Lazarsfeld and Frank N. Stanton, eds., Communications Research, 1948-1949. Publication of the Bureau of Applied Social Research, Columbia University, 1950.

86. Some examples: Nathan Leites, A Study of Bolshevism, Glencoe, Ill.: Free Press, 1953; Hadley Cantril, Soviet Leaders and Mastery over Man, New Brunswick, N.J.: Rutgers University Press, 1960; Mark W. Hopkins, Mass Media in the Soviet Union, Pegasus, N.Y.: Western Publishing Co., 1970; Gayle Durham Hollander, Soviet Political Indoctrination; developments in mass media and propaganda since Stalin, New York: Praeger Publishing, 1973; Burton Paulu, Radio and Television Broadcasting in Eastern Europe, Minneapolis: University of Minnesota Press, 1974. Most recently, Ellen Propper Mickiewicz, Media and the Russian Public, New York: Praeger, 1981.

were affected by radio and television, as contrasted with studies of how the broadcasting industry was organized and controlled, was further strengthened with the publication in 1949 of Joseph Klapper's The Effects of Mass Media, an exhaustive review of the⁸⁷ already voluminous "effects literature". While the Klapper book served to give credibility and prestige to studies of "effects", as opposed to historical or critical studies, it also had another message. The author repeatedly suggested that these much-studied "effects" were not to be seen as lasting forms of manipulation. He identified what he perceived as the many other variables which were at work on the viewer-listener, for example group norms, viewers' predispositions, and those important figures of American mass communications research, the "opinion-influencers" (Lazarsfeld's "influentials"). In the face of what he observed as the durability of the influence of these other factors, Klapper offered a list of the kinds of techniques which would be needed to accomplish maximum persuasiveness. Chief among these was what he called "canalization", that is,

87. Joseph T. Klapper, The Effects of Mass Media. New York: Columbia University Press, 1949. CBS funded Klapper's book and he later became head of the CBS research office, succeeding Stanton who became CBS president. The book on effects was published in a slightly different form in 1960 with the title The Effects of Mass Communication: An Analysis of Research on the Effectiveness and Limitations of Mass Media in Influencing the Opinions, Values, and Behavior of Their Audiences, New York: The Free Press.

88. Klapper called these "needs", a term which came into wide usage in communications research, faintly suggestive of supply-and-demand market relationships.

building an appeal on the basis of viewers' known attitudes.

Canalization, if correctly used, could have an impact in spite of the other counteracting variables. Klapper speculated: "Given the rumblings of serious social malcontent -- or, in terms of our current orientation, given individuals with predispositions toward change, unstructured as the envisaged change may be -- mass communication would appear to be capable of molding or canalizing the predispositions into specific channels and so⁸⁹ producing an active revolutionary movement". But Klapper

discounted the likelihood of this kind of canalization occurring, at least in the United States, since "the nature of commercial mass media in a free enterprise society", including its economic⁹⁰ requirements, necessitated "sanctification of the status quo".

Thus he reassured his readers that if there were to be canalization it would support the predispositions not of the malcontent but of the contented.

Two other publications of the late 1940's helped set the stage for the post-war social science of mass communications: Lyman Bryson's The Communication of Ideas and Wilbur Schramm's Communication in Modern Society. Bryson reiterated the view that the organization and function of broadcasting, "mass communication", had "this inescapable character: it is a relation

89. Ibid, pp.252-253.

90. Ibid, p.51.

between a single point of diffusion and a great mass of audience"; thus concentrated controls "are the substantial⁹¹ elements of any possible system of mass communication". The contributors to his book did not show much interest in going beyond this paradigm, although within it they evidenced disquiet. Margaret Mead cited the disintegration of the institutionalized centers of responsibility, and called on broadcasters to adopt a code of ethics. Lasswell, having restated and enlarged upon his equation (who says what in which channel to whom with what effect?) found that the problem of the concentration of power in the hands of the broadcasters was now being countered by audience talkback as for example that which⁹² was being provided through "scientific methods of sampling" (an apparent reference to the Neilsen and similar commercial rating systems). Another prominent contributor to Bryson's collection was Robert Merton who, during the war and after, had turned his attention to mass communications studies, and had in 1946 published his empirical "effects" analysis of Kate Smith's⁹³ spectacularly successful radio program promoting war bond sales. The essay in the Bryson collection, which Merton co-authored with Lazarsfeld, was entitled "Mass Communication,

91. Lyman Bryson, The Communication of Ideas. New York: Institute for Religious and Social Studies, Harpers, 1948, p.7.

92. Ibid, p.42.

93. Robert K. Merton, Mass Persuasion. New York: Harpers, 1946.

Popular Taste and Organized Social Action". In it the authors took up the alleged danger of the power held by interest groups, including the possibility of organized business "manipulating mass publics through propaganda in place of more direct means of control".⁹⁴

In that same year, the FCC had issued a report "Public Service Responsibility of Broadcast Licensees" in which it found that some radio trends were "inimical to the public interest".⁹⁵

Called "The Blue Book", this report documented and criticized the large volume of radio soap operas and commercial advertising and the relative absence of education and public service. It "elicited cries of protest from the broadcasting industry on the ground that freedom of speech was being

abridged".⁹⁶ Merton and Lazarsfeld appeared to be mindful of the FCC report in their essay. While they concluded that business support of the media had the effect of affirming the status quo and resulted in an absence of any effort "to raise essential

questions about the structure of society",⁹⁷ Merton and Lazarsfeld argued that this did not mean that mass persuasion could readily alter "deeprooted attitudes and ego-involved

94. Ibid,p.96.

95. Charles Siepmann, in Bryson,op.cit.,p.181. Siepmann was a chief author of the FCC report.

96. Frank J. Kahn,ed.,Documents of American Broadcasting,p.125. The Blue Book is included among the documents, pp.125-206.

97. Ibid,p.104.

98. Ibid,p.114.

behavior". To bring that about, they argued, would require certain essential conditions which are rarely present all at the same time, namely monopolization, canalization, and supplementation through face-to-face contact -- conditions which they felt had been accomplished for example in the 55,000 reading⁹⁹ rooms and radio-listening clubs in the USSR in 1933. From their analysis they concluded that "the media do not exhibit the degree of social power commonly attributed to them"; in fact they serve¹⁰⁰ "to cement the structure of our society."

It is, like Klapper's, a puzzling conclusion reflecting the dilemma besetting American media sociologists of the post-war era who on the one hand delineated the enslaving and propagandizing power of radio and television in the Soviet Union (where it was fully "monopolized", "canalized", and "re-enforced") and on the other hand depicted the same technology in the U.S. as relatively harmless and diffuse, an institution which reflected prevailing beliefs rather than creating or enforcing them. The paradox is resolved however when understood in the context of the evolving synthesis of state and corporation with its ideology of free enterprise and its profitable practice of media commodification, including its sustained support and subtle influence over the communications researchers themselves.

99. Ibid, p.116.

100. Ibid, p.117.

It is relevant here to bring in the framework of functional analysis identified with Merton, in part because of his involvement in propaganda and communications research and especially because of his dominant role, along with Parsons, in the field of American sociological theory. Merton was troubled by the absence of a general theoretical framework, a theory of society to which one might relate the burgeoning empirical studies arising all about him, including his own. He solved the difficulty by giving up on it. The social theories of the past, for example Comte and Spencer, he found to be no longer useful; our heritage from them provided no "very solid base on which to stand".¹⁰¹ So he redefined the problem by abandoning comprehensive theory altogether and calling for his famous "theories of the middle range", that is: "interconnected conceptions which are limited and modest in scope, rather than all-embracing and grandiose."¹⁰² He thus effectively removed the central problems of social existence -- war, class conflict, poverty, ideological oppression, racism, sexism, imperialism, colonialism, nationalism, socialism, capitalism -- from the agenda of the sociologist. To reinforce the limitation, Merton set forth requirements ("paradigms") for these middle range theories (which he also called qualitative analysis): middle

101. Robert K. Merton, Social Theory and Social Structure; Toward the Codification of Theory and Research. Glencoe, Ill.: The Free Press, 1949, p.5.

102. Ibid.

range theories must be designed to emulate "the logical....rigor
of quantitative analysis".¹⁰³ They must be "standardizable",
"testable by others", and codifiable.¹⁰⁴ Perhaps most essential
to his total outlook, which he called functional analysis, was
his insistence that the research process must clearly separate
the subjective (that is, the social existence of the observer
which might endanger his research objectivity) from the
objective. The separation is accomplished by the careful
identification and removal of what cannot be empirically proved.
Despite many refinements and subtleties, including the
elaboration of the latent function/manifest function distinction
which Merton felt held great promise for advancement in
sociological theory, the net effect of his new method of
functional analysis was to remove fundamental social problems
from the sociological agenda and to strengthen the legitimacy of
empirical research on problems which were relatively free from
ideological overtones. For the growing number of mass
communication researchers it served as reassuring legitimation;
their analyses were no longer a search for the insignificant.
The introduction of the concept of latent function in social
research led to conclusions which showed that "social life is not
as simple as it first seems".¹⁰⁵ For example:

103. Ibid, p.15.

104. Ibid, p.16.

105. Ibid, p.68.

For as long as people confine themselves to certain consequences (e.g. manifest consequences), it is comparatively simple for them to pass moral judgments upon the practice of belief in question....But the perception of further (latent) consequences often complicates the picture. Problems of moral evaluation (which are not our immediate concern) and problems of social engineering (which are our concern) both take on the additional complexities usually involved in responsible social decisions.

Merton's favorable comparison of the American sociology of knowledge as against the European is significant as a further legitimation of his methods. He championed the Americans, particularly the contributions made by mass communication studies. Their neglect of historical material was understandable because of the unavailability of data: "the empirical rigor of the American persuasion involves a self-denying ordinance in which significant longterm movements of ideas in relation to changes in social structures are pretty much abandoned as a feasible subject for study".¹⁰⁶ Merton catalogued the many research techniques developed and used by Lazarsfeld, Stanton, Hovland, Lasswell, Leites and others in their efforts to determine how propaganda or persuasion affects listeners. "The student of mass communications...had almost from the beginning been concerned primarily with the impact of mass media upon audiences."¹⁰⁷ Merton compared this with the European variant

106. Ibid, 206.

107. Ibid, p. 211.

where the sociologist emphasized the source, the structural determinants of thought: "the European asks, how does it come to be that these particular ideas appear at all".¹⁰⁸ That American research should focus on the listening audience was explained by Merton as due to the requirements of the market and the military -- "since, with propaganda as with advertisements, the sponsors want to know if these have attained their intended effects".¹⁰⁹ He cautiously posed the question of whether government and industry had "too closely harnessed" the communications research, "providing too little occasion for dealing with more nearly fundamental questions of social science"¹¹⁰ which he deemed to be "problems of social incentive and motivation, of informing and persuading large numbers of men of the purposes and ends which should be pursued, and of having them adopt the expeditious ways of moving toward those ends".¹¹¹

In sum, the emphasis of researchers and social scientists in the new field of mass communications studies in the United States was primarily empirical, concentrating on "audience analysis". It was a line of inquiry and a methodology guided and encouraged by the broadcasting corporations and the advertising businesses

108. Ibid, p.211.

109. Ibid, p.211.

110. Ibid, p.213.

111. Ibid, p.216.

for several reasons. It deflected attention from the growing public uneasiness about the "power of the media" and it precluded any serious critique of the established pattern of private ownership of the media. It also provided important information about ways of achieving effective impact on consumers of radio and television output. Another force influencing post-war research trends in mass communications was of course the government, supplemented by the eleemosynary foundations. Grants from these sources helped establish university centers "for the study of public opinion and communication by the methods of social science".¹¹² Commenting on these centers in 1950 Bernard Berelson and Morris Janowitz wrote: "Together with the continuing activities of industry and government, they now represent a large scale research enterprise".¹¹³

As we have seen, it was an enterprise with rather carefully circumscribed limitations which asked and answered research questions that could do little more than stabilize the existing political and economic arrangements of post-war United States, including the ownership and management of the mass media.

112. Bernard Berelson and Morris Janowitz, Reader in Public Opinion and Communication. Glencoe, Ill.: The Free Press, 1950, p. ix, cited in George A. Lundberg, Clarence C. Schrag and Otto N. Larsen, Sociology. New York: Harper and Brothers, 1954, p. 450.

113. Ibid.

SECTION 5 -- NEW DIRECTIONS: U.S. MASS MEDIA RESEARCH
GOES INTERNATIONAL

By the mid-fifties the publications of American specialists in mass communication began to reflect the new political and economic directions of the post-war period, specifically the intensifying cold war and the decolonization of the Third World. There were comprehensive studies of the media of the Soviet Union and also a first-time awareness of the mass communications systems of the non-industrialized world including the territories which were emerging from British and French control. Both trends were fostered and in many cases directly initiated by the State or Defense Departments, by private foundations, and, covertly, by the CIA. Wilbur Schramm, who became an authority in this area of study, described it as sponsored research "into the symbolic battle for the minds of men and the friendship of nations".¹¹⁴ A major tool for those embarking on this new kind of study was the updated publication of Lasswell's annotated bibliography, first printed in 1935 as Propaganda and Promotional Activities, updated

114. Ralph O Nafziger, ed. Introduction to Mass Communications Research. Baton Rouge: Louisiana State University Press, 1958, p.16.

and reissued in 1943 as Propaganda, Communication and Public
Opinion,¹¹⁵ and with a new emphasis in 1956, with funding from
the Rand Corporation (a research institute closely linked to the
U.S. Air Force, Department of Defense), as International
Communication and Political Action: A Guide to the Literature.
Bruce L. Smith, who had been co-editor in 1935, was an editor of
the 1956 version. His introduction stressed elements which he
felt helped explain the post-war expansion of communications
research to include international communications. He cited for
example the role of the U.S. government as sponsor of "worldwide
propaganda on a large scale",¹¹⁶ the rise of the foundations'
interest (he cited the Hoover Institute, MIT's studies in
international communications, and Princeton's Center of
International Studies, especially its "Appeals of Communism"
series), the growing emphasis of UNESCO on studies of
international communication as a way of reducing tension, and the
needs of business firms engaged in international trade. In
effect he called on communications researchers to turn their
attention to the problem of "developing an integrated,
non-authoritarian, international information system

115. Bruce L. Smith, Harold D. Lasswell and Ralph D.
Casey, Propaganda, Communication, and Public Opinion: a
Comprehensive Reference Guide. Princeton, N.J.: Princeton
University Press, 1946.

116. Bruce L. Smith and Chitra M. Smith, eds. International
Communications and Political Action: A Guide to the
Literature. Prepared for the Rand Corp. by the Bureau of Social
Science Research, Wash. D.C. Princeton: Princeton University
Press, 1956, p. 7.

as an instrument of healthy socio-economic

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growth". He found that "....Free World research, which might have assisted somewhat in clarifying Free World public policy along these lines, has tended to leave the Communists a great deal of the initiative in announcing ideas about how to bring 'the good life' to the less-developed areas". He

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continued:

The field of "Free World development communication" and the training of personnel to take part in it would seem to be full of challenging possibilities. Certainly it is still wide open for inventive theorists, methodologists, and field workers, and for a leading school to develop a coherent plan of research.

With the added stimulus of sputnik in 1957, the universities and their communications faculties responded to the challenge to enter the field of development communications studies.

Communications research centers multiplied. Symposia were planned and publications appeared, including studies of

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communication in Africa and of the U.S. Information

117. Ibid,p.11.

118. Ibid,p.12.

119. Ibid,p.14.The original 1936 bibliography was reissued in 1969 as Propaganda and Promotional Activities: an Annotated Bibliography.Chicago:University of Chicago Press. It was edited by the original authors, Lasswell, Casey and Smith. The introduction, "What Next?" was by Lasswell.

120. Communication in Africa: A Search for Boundaries,Leonard W. Doob. New Haven: Yale University Press,1961. The book was funded by the Quartermaster Research and Engineering Command, U.S. Army.

121
 Service, studies linking national development with
 122
 communications development, and analyses of the direct
 123
 foreign policy implications of international communications.
 A sample of the latter was W. Phillips Davison's International
 Political Communication, published in 1965 by the Council on
 Foreign Relations. Davison, as the unofficial dean of
 international communications studies, concentrated on the problem
 of presenting the U.S. image, arguing that the United States
 should "build more purposefully on its traditions of free public
 124
 discussion", should champion freedom of information, adhere
 to the objectivity and truthfulness of the best private media,
 and open a two-way exchange with other nations. Davison felt
 that ideas directed at communist countries or emerging countries

 121. The Strategy of Truth: the Story of the U.S. Information
 Service, Wilson R. Dizard. Washington, D.C.:Public Affairs
 Press, 1961. Among the chapter titles: "The Battle for World
 Opinion", "Words at War", and "The Delicate Art of Exporting
 Culture".

122. Among others, Communications and Political Development, Lucian
 W. Pye, ed., Princeton, N.J.:Princeton University Press, 1963;
Mass Media and National Development, Wilbur Schramm. Stanford, Ca.:
 Stanford University Press, 1964, and People, Society, and Mass
 Communications, Lewis Anthony Dexter and David Manning White,
 eds. New York:The Free Press, 1964.

123. For example, The Fourth Dimension of Foreign Policy, P.H.
 Coombs. New York: Harper and Row, 1964, and World Revolutionary
 Elites, Harold Lasswell, Cambridge, Mass.:MIT Press, 1964. This was
 one of the MIT Studies in Comparative Politics series. Also,
Political Culture and Political Development, Lucian Pye and Sidney
 Verba, eds. Princeton, N.J.:Princeton University Press, 1965, and
International Political Communication, by W. Phillips Davison.
 New York:F.A. Praeger, 1965.

124. W. Phillips Davison, op.cit., p.5.

should effectively advance our foreign policy, a goal which called for knowing our audiences better, and for closer partnership between communications industry and government. He also recommended more coordination in the presentation of events which sometimes appeared as contradictory, as for example when a disturbing picture might be created by reports of individual racial incidents rather than an accurate report of race relations in general.¹²⁵

Hadley Cantril, who by the 1960's had become chairperson of the Psychology department at Princeton and had written many additional books and reports on propaganda, including his Soviet Leaders and Mastery over Man,¹²⁶ entered directly into policy advising with a series of propaganda recommendations submitted confidentially to Allen Dulles in a memo dated March 21, 1962¹²⁷ Among the themes which Cantril felt U.S. propaganda should repeat and repeat "in rifle shot fashion" were: "that the Communist Party uses nations and states and the people who compose them as instruments or tools to carry out Party policies"; that the issue in the underdeveloped areas is "not one of 'communism' versus 'capitalism' but the dictatorship of the Communist Party versus the possibility of national development in a free and open way";

125. Ibid, p.8.

126. New Brunswick, N.J.: Rutgers University Press, 1960.

127. Published in Counter-Spy, May-July 1981, pp.11-12.

"that while Soviet leaders talk about 'co-existence', in reality they seem to be afraid of it. They object to open skies and to an open world..." Cantril also urged Dulles to bring about the formulation of an ideological statement of purpose in order "to out-compete the Soviet Union in teaching people in underdeveloped areas what to want -- what 'progress' and 'civilization' can and should refer to". He recommended a policy that would praise the Soviet peoples' advances, for example in their standard of living, since the effect of such praise would further build the U.S. as a model and thus help continue pressure in the USSR for more consumer goods.

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Application of the kinds of policies recommended by Davison and Cantril, among others, became increasingly difficult as the emerging nations took their places on the world stage, and as enormous advances in communication technology sharply increased the number of people in the world who could find out what was happening. One may discern a similarity here with that earlier period of communications development within the United States when authorities grew anxious about the explosive growth of radio and the possible effect on millions of previously isolated citizens as they became exposed to a national communication network of an impact and power not yet known. Now the number of new listeners was in the billions, and what they might be

128. Ibid.

listening to, and with what effects, was not readily available for research purposes to American communications scholars. Their techniques for content and audience analysis would be useful in assessing the new phenomenon, especially in the context of the perceived propaganda competition between the Soviet system and the U.S. system. But they needed a wider scope than the one to which they had accustomed themselves if they were to probe the relationship between mass media and economic development. This led the various theorists to define the problem as one of modernization, or of transitional societies suddenly confronted by the phenomenon of "leapfrogging", referring to what was seen as a sudden leap by the Third World into the twentieth century without having had to suffer as the West has through the arduous 500-year progression from Gutenberg to the present informed state of civilization. The difficulty of applying American social science concepts and approaches to the Third World was compounded by uncertainty over what kind of base the new countries were to use to construct their societies and their communications networks. Was it to be "free enterprise" over there like over here, regulated by a benign governmental force like the FCC? This was the pattern to which American media sociologists had become accustomed and which their research had generally accepted as a given. Or was it the time to reopen old questions, such as those touched upon by Cantril and Allport in 1935, or by Lazarsfeld or Merton in their post-war reflections on the problem of centralized corporate control of mass communications, or the more

recent recommendation of the Hutchins Report that: "the present advertising-commercial control of programming in the domestic field is quite unsuitable in the international field."¹²⁹ Most of the communications researchers who took up the study of media in the underdeveloped world did not raise the issue of how the mass communications network was concentrated and controlled in the United States, although they accepted the model of first amendment freedom as fundamental: "a free, independent, autonomous, and preferably non-partisan press is an essential prerequisite for democratic government".¹³⁰ Given the remoteness of this ideal in the impoverished new nations, not to mention the difficulties of explaining the known monopoly patterns of media ownership and control in the United States, including the U.S.-based world news-gathering corporations, the conglomerate holdings of radio and television networks, the transnational expansion of such corporate communications developers as ATT, Ford, ITT, Hughes, RCA, and others, and the vast government-owned and government operated Voice of America, it was understandable that American social scientists turned to more manageable issues such as: how and to what extent the media altered the traditions and values of newly penetrated countries; media efficacy in achieving political consensus; and the possibility of reinforcing

129. Cited in George Gerbner, Mass Media Policies in Changing Cultures. New York: Wiley, 1977, p.47.

130. Lucian Pye, Communications and Political Development, op.cit., p.8.

"impersonal mass media" with the "more face-to-face pattern of social
communication".¹³¹ Lucian Pye proposed that American social
science experts in communications were particularly well suited
to the task of developing "the appropriate strategies and
doctrines which might facilitate the process of nation building
in the transitional countries". They had already served as a
"remarkably effective bridge between the world of theoretical
social science and the world of public policy," concentrating on
"the problems of changing the attitudes and behavior of others
and of communicating across the barrier of differing cultures"
and evidencing "a unique respect for practical policy problems
and a high degree of understanding of how scholarship may be
turned to policy ends without damaging the growth of knowledge".
Born from the wartime need to combat Nazi propaganda,
communications research had "continued to be delicately balanced
between the scholars' world and that of government officials and
private industry", he wrote.¹³²

An example of one who achieved such a balance was the
political scientist Ithiel de Sola Pool, who like many other
scholars had for several decades been conducting policy research
in the field of mass communications and U.S. relations with the
socialist and Third World. A 1964 essay by Pool, "The Mass Media

131. Ibid.

132. Ibid, pp.12-13.

and Their Interpersonal Social Functions in the Process of Modernization" is representative of his views. Pool had worked under Lasswell's guidance during his graduate student days and had gone on to concentrate on empirical studies of propaganda, especially Soviet. A longtime professor at MIT, he served also as a member of the United States Air Force Science Advisory Board and the Defense Department's Science Board. In his 1964 essay on modernization Pool said that ruling groups in the developing countries held conflicting views of mass media: in the non-communist countries they were lukewarm to media development, fearing rising expectations which could not be met; in communist countries they used the media for discipline and conformity, valuing "the social function of a communication above its truth value".¹³³ A third approach, with which Pool associated himself, rested on "a criterion of objective truth, which is one of the peculiar features of the Graeco-Roman Western tradition". This latter approach Pool described as "ruthlessly two-valued and dominated by the law of the excluded middle".¹³⁴ He argued that "the Western criterion of truth assumes further that validity can be tested independently of who does the testing..."¹³⁵ The

133. Ithiel de Sola Pool, "The Mass Media and Their Interpersonal Social Function in the Process of Modernization", in Dexter and White, eds, People, Society and Mass Communications, op.cit., p.433.

134. Ibid, p.434. Pool argued that "Indian logic" would never accept this law since Indian logic sees the possibility of statements being both true and false simultaneously.

135. Ibid.

problem of modernizing was to inculcate this "scientific attitude", to transform values and personality accordingly, and to raise the "achievement motivation".¹³⁶

The kind of media strategies and policy recommendations for the developing world which flowed from social scientists like Pool are well represented in the following summary by Daniel Lerner:¹³⁷

What is needed in the years ahead is a new conception of public communication as the crucial instrument which can promote psychic mobility [cf. "achievement motivation" in Pool], political stability under conditions of societal equilibrium. The mass media can be used to mobilize the energies of living persons (without creating insatiable expectations) by the rational articulation of new interests. Flanked by the schools and community leaders, the mass media can simultaneously induce a new process of socialization among the rising generation that will, among other effects, recruit new participants into political life. The two processes -- short-run mobilization and long-run socialization -- can then converge, a generation later, in the new aggregations of private interests, which are the stuff of a democratic polity.

It is to be noted that such recommendations reveal an advocacy role for mass communication quite different from what media sociologists perceive to be its role in the United States. Further, the sociologists' alignment with the policymaker and their implicit espousal of official government positions departs

136. Ibid, p.439.

137. In Lucian Pye, Communication and Political Development, op.cit., p.350.

significantly from the model of scientific objectivity.

By the seventies, social scientists, especially those who had become specialists in studies of Third World and socialist mass media, began to take up the issues surrounding international broadcasting by space satellite, including the implications which space broadcasting might have for U.S.-USSR relations and for the accelerating drive by Third World countries to alter the imbalance they perceived in "information flow".

In an analysis of these issues in 1975, Ithiel de Sola Pool described the history of the direct broadcast satellite controversy and took up the criticisms which had been made against the official U.S. position. His earlier assertion about the superiority of the Western Graeco-Roman heritage over other cultures is only subliminally evident, although he approvingly restates the typology which had appeared in Lerner's "classic",
138
The Passing of Traditional Society. This typology had identified illiterate villagers as "traditional men", migrants to the city as "transitional men", and those who had become educated urbanites who "understood the issues of the cold war and ideological movements and followed world affairs with interest"
139
as "modern men".

138. Daniel Lerner, The Passing of Traditional Society: Modernizing the Middle East. Glencoe, Ill.: Free Press, 1958.

139. Cited in "Direct Broadcast Satellites and Cultural Integrity", Society, Sept/Oct., 1975, p.48. Pool had by then become a fellow in the American Academy of Arts and Sciences, and a member of the Council on Foreign Relations.

139
as "modern men".

To begin with, Pool stated that the whole matter was a non-issue since direct broadcast by satellite "to countries that do not wish it is not an attractive option for either governments
140
or commercial broadcasters". Nevertheless he examined at length the general problem of "cultural integrity" and its alteration by outside forces, such as "movies, television, literature, songs, hairstyles, clothing styles, patterns of respect and etiquette and religious observances". For Pool the world was one vast marketplace in which that system which best turns out what the public wants will best succeed in supplying cultural materials. He found that the American system, since it was "predominantly commercial", was the system which "is geared to producing what
141
the public wants". He continued:

It should be no surprise that in the country where producers try hardest to produce what the public wants, they succeed. The Americanization of world culture so often commented on and deplored might be better described as the discovery of what world cultural tastes actually are, and adoption of those into American media.

Pool cites the U.S. experience in Vietnam in the 1960's as one example of this process. During the war in Vietnam the U.S. government put into South Vietnam a two-channel television system

140. Ibid, p.48.

141. Ibid, p.54.

"to help the American troops feel at home, improve the quality of life and relieve the rural boredom for the population on the government side". One channel was standard U.S. commercial programming, the other was "programmed and produced by the Vietnamese in Vietnamese and aimed at the rural population. It turned out that in the cities millions of Vietnamese "turned by preference to the better produced, slicker American programs....Batman won the rating race". Pool concluded that the Vietnamese channel "was not serving the modernized Vietnamese as well as the United States channel". If there were critics of this outcome, Pool warned them not to raise protectionist barriers against foreign materials. Rather, let them take advantage of the situation since the foreign product from America provided "an incentive to producing equivalent, but more locally relevant, material at home".

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Pool outlined two possible approaches to the dilemma of direct satellite broadcasting, though it was "not a matter of much importance to us". One way would be to yield to the "censorship proposals", partly because we were almost alone on the side of freedom, partly because he found (true to his empirical orientation) that "no reality testing [was] available". The other way would be to refuse to cooperate with other governments in "shackling what their peoples can see and

142. Ibid, p.53.

hear". It is fairly clear that he preferred the latter course, believing that non-cooperation by the U.S. would make unenforceable any concerted action by other nations:"there is no realistic prospect of the nations of the world compelling us, the satellite launching nation, to enforce a convention we decline to sign". Still, he hoped for a third, or "mixed" position by means of which the United States would respond to the anxiety of other nations, avoid censorship, and still allow for the U.S. to "support continued development of satellite communication". Pool's implied threat (of withdrawal of U.S. support from satellite development) was softened by his proposal that the U.S. might: "subsidize a flow of communication by satellite from the developing countries to the rest of the world", use U.S. AID moneys to "fund placement of ground stations in poor countries" and "cooperative exchange activities for television programs", extend U.S. backing for a UN "worldwide television network", provide for extension of the communications power of satellites to include data transmission so that the growing superiority of the vast information resources of the West might be accessible to users anywhere in the world. "Overnight, developing countries could close the information gap".

Pool was representative of the post-war, policy-oriented social scientist and his long time relationship with the

143. Ibid, p.55.

government bureaucracy gave his public writings a semi-official character. The possible contradiction between his claimed scientific neutrality and his unblinking advocacy of U.S. policies did not appear to enter his thinking. Consider for example his designation of the social sciences as "the humanities of our era", a claim he illustrated by citing the effectiveness of social science in "handling man's greatest problem, organized violence. It is the social sciences that give us the most reliable information about where riots will breed, how criminals can be controlled, whether insurgents will maintain rule of a university or a village, and how nuclear war can be avoided".¹⁴⁴

It is not being argued that the analyses of American social scientists like Pool are without merit. The problem lies rather in the unrecognized assumptions. What may be valid resistance against repression becomes for them "violence" or "riots" or "insurgency", and the methods for controlling such forms of resistance are to be found in the humane and rational paradigms of the social sciences. The givens are on the side of the status quo. The very terms -- who would be for "violence"?-- are selected to win the argument before it starts, to legitimize the policy and the American ideology from which it springs. Other communications theorists describe the same phenomenon (violence)

144. Ithiel de Sola Pool, "Content Analysis and the Intelligence Function", p.197, in Arnold A. Rogow, ed., Politics, Personality and Social Science in the Twentieth Century: Essays in Honor of Harold D. Lasswell. Chicago: Chicago University Press, 1969.

in more subtle language. Daniel Lerner took up the matter in an essay written in honor of Lasswell's life and work as a pace-setter for the management of communication. Lerner identified the media's task as having to cope with two twentieth century phenomena: first, "participation, the rise of public opinion and the spread of media consumption" and second, "globalism, the political activation of "the opinions of mankind".¹⁴⁵ Lerner explains:

Coercion cannot forever repress frustration and prevent revolution. Only persuasion -- the effective management of communication -- can shape public opinion in such manner as to reduce popular frustration and prevent political upheaval. This is the great benefit taught by communication sociology.

The foregoing examination of the beginnings and subsequent development of the study of mass communications in the United States was undertaken in order to discover its usefulness as guide to understanding the issue of transborder international broadcasting. With due respect to the scholarship and imaginative approaches apparent in the body of work of the major contributors it must nonetheless be said that the most useful vectors are to be found between the lines, in their latent rather than their manifest intentions. The early writing on propaganda for example (before it came to be called mass communications) while purporting to be neutral analysis, actually revealed an -----

145. Ibid, p.171.

underlying anxiety about the possibilities of propaganda as a destabilizing force within the society where the analysis was occurring. The careful dissection of specific propaganda techniques proved often to be catalogs or guideposts to the achievement of effective word weaponry against unwanted ideas. Thus the propaganda analyst became the counter-propagandist. Later, as more sophisticated research approaches emerged, they appeared to show a serious concern over the "mass" of mass media. Although the researchers may not have recognized it, we may read in their anxieties the presence of a disaffected population, a segment of society which they viewed as potentially critical of and resistant to the prevailing social structure or at least to their assigned role in that structure.

The eventual linkup between communications research and industry and the military, while causing some small concern among social scientists, was generally accepted as appropriate, despite repeated affirmations about the neutrality of knowledge and scholarship. The unavoidable conclusion is that social science and specifically the mainstream of sociology of mass communications in the U.S. was not neutral but rather shaped by and responsive to the social context in which it existed. It is a pattern that is still apparent.

Thus as guidance for the emerging world conflict over control of mass broadcasting, the accumulation of social science in the field of mass communications is to be seen as advocative

of United States government interests in the world arena, and as collaborative with the needs and goals of the dominant corporate forces within the United States. It should be added that this is little different from social science as it exists in socialist countries but there the connection with the dominant forces is discerned by all while "over here" it frequently remains unnoticed.

This insight permits us to understand that U.S. social analysts who undertake examination of the international mass broadcasting controversy, and its larger framework of conflict over news and information flows, will largely argue for the official U.S. position without submitting it to the kind of critical analysis that would take them outside the framework of its own conditions.

CHAPTER IV - DBS AND INTERNATIONAL LAW

SECTION 1 - THE CONCEPT OF INTERNATIONAL LAW

The concept of international law, with its ambiguities and uneven history, bears closely on any consideration of international mass communications. Western scholars and students of international law tend to view it as arising historically, out of the needs of states to agree on rules of war, on rules for the mutual use of the high seas, on trade arrangements, and on protecting the rights of nationals. Bilateral treaties were the early form of such law; in the nineteenth century, with the emergence of a more self-conscious nationalism, states with common interests began to join together in multilateral treaty-making, as in the Congress of Vienna.

In 1896 at the Hague Conference the major European states began a codification of international law. A large part of their work dealt with the rules of war, including the clarification of such points as the "opening of hostilities", "position in naval war of

enemy's merchant ships at beginning of hostilities", and so
forth.¹ Another indication of the increasing importance of
international law was the establishment of the Hague Court of
Arbitration and of standards for marriage law.

It did not go unnoticed that the emerging body of codified
international law was strongly rooted in the interests and needs
of the European powers, or, as they were called throughout the
nineteenth century, the "Christian" or "civilized" nations. A
somewhat less ethnocentric attitude emerged as a result of such
particular events as Japan's victory over Russia in 1905, and
Turkey's somewhat earlier prowess which won it considerable
recognition from European rulers and military strategists. In a
comment on the possibility that non-Christian states would become
participants in the development of international law traditions,
the eleventh edition of the Encyclopedia Britannica noted that
Japan was fortunately adopting "the best she found in Western
morals, and in her schools inculcates Christian ethics as a
subject per se without reference to divine revelation or
authority. Turkey too has...a code of morals which produces so
high a standard of right conduct in private life that very little
in the way of moral lessons will have to be learned by the
Ottomans from Western civilization."²

1. Encyclopedia Britannica, eleventh edition, 29 vols. New
York: University Press, 1910, vol. 14, p. 697.

2. Ibid, p. 698.

If it was not easy for the West to make room for others at the diplomatic table it was even more difficult to explain some of the long accepted Western rules of war. The notions of the "right of conquest", and that "the victorious are entitled to an indemnity without reference to any question of right and wrong or of justice and injustice"³ were not easily harmonized with the idea of Christian international law. It could be done, so long as the processes of imperialism and colonial conquest were not widely known. But, observed the legal scholar writing for the eleventh edition, "The public opinion of the civilized world", developed by "the national press and periodical literature", and augmented by leader-to-leader and people-to-people contacts,⁴ affected "the mental attitudes of nations toward each other", As we have seen, the problem of mass communication, which he was identifying, was to make matters increasingly difficult for the smooth management of international relations.

The double cataclysm of World War I and the revolution in Russia brought about a broad rethinking and reevaluation of the theory and practice of international law. Haltingly, and in spite of the United States' refusal to participate, the League of Nations came into existence and by its very survival, as well as through its multiplying treaties and conventions, hammered out

3. Ibid,p.698

4. Ibid,p.696.

rules for maintaining peace, to be codified alongside the longstanding rules for making war. The old legitimating treaties which had made it internationally "legal" for a colonial power to capture and exploit foreign territories and peoples began to be superceded by at least the idea, if not the practise, of treaties which accorded equal status to all signatories. The publicized claims of the Allied Powers in behalf of self-determination and the rights of nations to freedom from interference in their internal affairs had launched these new principles into the international law arena.

The horror of the second World War again laid bare the destructive potential of a lawless world and in its aftermath statesmen and jurists of all the victorious powers, this time including the United States, joined to create structures and treaties to help control and regulate relations between states without recourse to war. The United Nations, its specialized agencies, and the human rights principles of anti-racism, anti-colonialism, anti-genocide, world economic cooperation and disarmament all were added to the scope and content of international law.

These remarkable developments in the content and direction of international law have been variously assessed by Western jurists. One holds that they are merely disguises: "sublimated

power politics".⁵ Others have emphasized the slow accretion of experience in treaty-making, peacekeeping, and orderly extension of trade agreements, an accretion which could serve to nurture the "law habit" and perhaps some day bring about "the long-term advantage of stability and good faith on which international law in the West has largely rested".⁶ However they generally despair of ever finding common ground with the Soviet Union because of the deep antagonism against its adherence to the principle of collective ownership of the means of production in contrast to the West's identification with the principle of private property and the market economy.

A third school of Western legal thought, with Philip Jessup among its notable proponents, has argued that what is needed is a far more fundamental commitment on the part of nation-states to yield up sovereignty to some form of world order: "Until the world achieves some form of international government in which a collective will takes precedence over the individual will of the sovereign state, the ultimate function of law, which is the elimination of force for the solution of human conflicts, will not be fulfilled."⁷

5. George Schwarzenberger, The Dynamics of International Law. Milton, near Abingdon: Professional Books, Ltd. 1976, p.124.

6. O.J. Lissitzyn, International Law Today and Tomorrow, Dobbs Ferry, NY: Oceana Publications, 1965, p.65.

7. Philip Jessup, A Modern Law of Nations. New York: MacMillan Co., 1968, p.2.

The Soviet jurist, G.I.Tunkin, argues that the vast changes in international law during the twentieth century are to be attributed largely to the influence of the Soviet Union, since its arrival on the scene in 1917, and to the subsequent national liberation movements and expansion of socialism:"...new principles and norms having important significance for ensuring peace and the independence of peoples have emerged; and the old democratic principles and institutes of international law have been developed and strengthened"⁸. Tunkin lists the following as new principles: nonaggression, peaceful settlement of disputes, self-determination of peoples, peaceful coexistence, disarmament, respect for human rights, and the prohibition of war⁹ propaganda.

In line with his expressed belief in Marx's theory of history, Tunkin sees international law as itself an aspect of the class struggle, a struggle which is ultimately to subvert capitalism and permit the emergence of a new form of social organization. He emphasizes the Soviet interpretation which asserts that the class struggle occurs within existing societies and states, and is not to be pursued by use of force by one nation against another. That is, on the international level, the

8. G.I.Tunkin, Theory of International Law. Cambridge:Harvard University Press, 1974, p.49.

9. Ibid, pp.49-87.

"struggle" is carried out in a framework of "peaceful coexistence": "struggle does not preclude cooperation" he writes,¹⁰ and "cooperation permeates struggle". It is this that Tunkin regards as the essence of international law today. He opposes the Western jurists' espousal of a "world state", deeming it a diversion from the possible, and he condemns the way Western writers downplay the marked change in international law by reducing it to power politics. Emphasizing that he is speaking of the present phase of international law development, he¹¹ adds:

If previously the great imperialist powers frequently declared to be generally recognized norms those norms which they themselves had established, and imposed these norms upon the weaker states, at the present time any attempts of imperialist states to impose norms advantageous to them as norms of international law not only are unlawful but are doomed to failure beforehand.

Both the Western and the Soviet views seem to accept international law as a way of regulating the coexistence of states. Where the disagreement is deepest is precisely over the notion of law as an aspect of class struggle. In the capitalist world, law within a state (sometimes called municipal law) is perceived as a binding set of class-neutral customs or rules adopted by a community of citizens and backed by the force of the -----

10. Ibid, p.260.

11. Ibid, p.243.

state. At the international level, Western jurists see a kind of parallel between internal, ("municipal") law and international law, which may be viewed as the rules, norms and customs adopted by a community of nations. The absence of an enforcement power is seen as a central peculiarity of international law. It is this peculiarity which is at the heart of the Western ambivalence about the concept. Does it invalidate the idea of international law? Reduce it to power politics? Should it be seen as a long process of accrual, only just beginning? For the Soviet legal theorist, accustomed to the historical materialist approach, this peculiarity (the absence of enforcement power) sustains the idea that the formulation and evolution of contemporary international law is itself a process of class struggle ("against reactionary bourgeois concepts of international law"),¹² a view which is foreign to and totally rejected by Western jurisprudence.

This brief summary of present-day perceptions of international law serves to underline not only the profound differences which exist but also the fragility of the concept itself, prone as it is to the compelling economic, political and survival contests between twentieth century states.

12. Ibid, p.225.

SECTION 2 - THE EMERGENCE OF INTERNATIONAL SPACE LAW

Despite their divergence in philosophical and juridical outlooks, socialist states and capitalist states have been making¹³ treaties and having diplomatic relations for many decades. Advancing technology itself, including the penetration of outer space, has been a major factor in widening the arena where state interests meet and require cooperation and reciprocity if open conflict is to be avoided. The destructive nature of nuclear warmaking, a "space activity", has profoundly affected the interest of peoples and their leaders in negotiating solutions. Another "space activity", the technical and scientific prowess that has spawned electronic communication on a cosmic scale, has made it possible for great masses of people to be informed of the efforts and actions of their leaders, thus heightening their accountability. Where once it was the high seas which were a necessary subject for international law, it is now also air and outer space.

The first action between states that affected activities in

13. Lissitzyn, op.cit., p.54, reports that during the years 1917-1957 the Soviet state negotiated 2,516 treaties and agreements; of the treaties, most were with the United States. He adds in a footnote that "In 1963 the U.S. Department of State listed 128 treaties and agreements as being in force between the two states."

space might be said to have occurred at the 1903-1906 Berlin Radio conference (although of course electromagnetic signals were not originally perceived as a "space" issue). As we have seen, subsequent international negotiations led eventually to agreement on a total prohibition of the use of airplanes for commercial purposes and the establishment of the International Civil Aviation Organization, and a specialized agency of the UN. The positive aspects of this example of international cooperation has led

international law experts to evaluate, and in some cases to espouse, the kind of incremental progress which the ITU has shown may be achieved on a functional basis. The accumulation of a body of agreed upon regulations dealing with an inter-state activity like radio communication is cited as an example of how the foundations of international law may be strengthened, thus diminishing the likelihood of conflict. Lissitzyn warily suggests that joint or cooperative activities in outer space will further the necessary "reinterpretation of Communist ideology" and will slowly erode the Soviets' "extreme hostility to other systems of public order",¹⁴ a hostility which stands "in the way of the gradual evolution of mankind toward the rule of law in world affairs".¹⁵ Edward McWhinney, a Canadian authority, sees strong potential for a cooperative approach "between states with opposing social systems" if they hold to "modest and low level,

14. Lissitzyn, op.cit., p.70.

15. Ibid, p.68.

problem-oriented methods of resolution of current international
tension-issues".¹⁶

However Howard Schwarzenberger treats functionalism (i.e. international cooperation in dealing with a single function, for example radio communication) as doomed to fail because "the governments and bureaucracies of the World Powers are little inclined to share their governmental and administrative monopolies with other government representatives and competing sets of international bureaucrats". He cites the specialized agencies of the UN as examples of just how far states are willing to go: "[they] confederate international organizations with essentially consultative and prelegislative functions and, within a margin of tolerance, let them behave as if they were the organs of a functional international community".¹⁷

Jessup also sees "inherent limitations" to functionalism; although it can be very productive, it cannot substitute for political solutions.¹⁸ Building on what he perceived as "the United Nations habit",¹⁹ Jessup proposed an international regime

16. Edward McWhinney, "Peaceful Coexistence" and Soviet-Western International Law. Leyden: A.W. Sythoff, 1964, appendix p.131.

17. Howard Schwarzenberger, op.cit., p.127.

18. Phillip C. Jessup and Howard J. Taubenfeld, Controls for Outer Space and the Antarctic Analogy. New York: Columbia University Press, 1959, p.299.

19. Ibid, p.274.

for space, with responsibility to be vested in the General Assembly or some new international body with legislative power.

As we might expect, the Soviet authority Tunkin adheres strongly to the sovereignty of the states as against any superstate approach, and to support his view cites the UN charter: "The Organization is based on the principle of the sovereign equality of all its members."²⁰ This repeated Soviet position is deemed understandable by the legal scholar Lissitzyn: "In a world in which the Communist nations are still in a minority, they cannot afford to entrust their interests to the decision of a body in which the rule of unanimity does not²¹ apply."

Against this brief background of the significance and limits of international space law as discerned by legal authorities and scholars from their various vantage points, we may turn to an examination of how specific norms of space law have taken shape. Actually it was the already existing body of international air law (the law governing international air flight) which first obliged jurists to confront the space law problem. Starting with the Paris air law conference in 1910 a number of important international treaties had come into being dealing with the air

20. Tunkin, op.cit., p.377. The UN reference is to Article 2(1) of the charter.

21. Lissitzyn, op.cit., p.63.

rights of signatory nations. In 1944 in Chicago, on the eve of the post-war expansion of commercial airflight, diplomats and international lawyers representing the large airlines reaffirmed the principle that a state had exclusive sovereignty rights in the air space above it, a principle first agreed to in the Paris air conference in 1919 and explained as follows by an
22
international airspace lawyer:

For many years, the legal principle has been accepted that each state is sovereign in the airspace over its national lands and waters, that its unilaterally determined laws and regulations apply there to the exclusion of all others and that it has the sole and exclusive right to permit, control, or deny flight in its airspace.

The same authority wrote "...that the territory of a State shall be understood as including the national territory, both that of the mother country and of the colonies, and the
23
territorial waters adjacent thereto."

The coming of space satellites forced reexamination of this principle. J.C. Cooper, from 1934 to 1945 a vice president of Pan American Airlines, and for many years a recognized legal authority on air law, argued in many fora that existing air law should be clearly distinguished from emerging space law and that

22. J.C.Cooper,Explorations in Aerospace Law. Montreal: McGill University Press, 1968,p.39.

23. Ibid,p.7.

this should be accomplished by setting "an upper limit to national sovereignty, with its rights of unilateral

regulation".²⁴ If this question were resolved, states could then agree on the legal status of outer space, which he urged should²⁵ be treated similarly to the high seas.

Cooper's recommendation to establish an official cut-off point between air space and outer space was much discussed but not adopted. In its place a kind of de facto agreement has evolved which sets the altitude of state sovereignty at that level above which aerodynamic flight is not feasible and below which orbital flight is not feasible.

It is argued by many Western international law authorities that the United States and the Soviet Union both appear to adhere de facto to this definition as evidenced by the practice since Sputnik of sending satellites into orbit without regard to the "sovereign space" of the many nations over which the satellites pass. However Soviet commentators on international space law

24. Ibid, p.30.

25. Cooper approvingly cited(op.cit., p.39) an 1826 description of the then evolving international law of the high seas, taken from an opinion of Mr. Justice Storey of the U.S. Supreme Court: "Upon the ocean, then, in time of peace, all possess an entire equality. It is the common highway of all, appropriated to the use of all; and no one can vindicate to himself a superior prerogative there. Every ship sails there with the unquestionable right of pursuing her own lawful business without interruption; but whatever may be that business, she is bound to pursue it in such a manner as not to violate the rights of others".

reject the implication that outer space is somehow beyond sovereignty, insisting that "the basic principles and rules of international law extend to space activities too".²⁶ A Soviet book entitled International Space Law, edited by Prof. A. S. Piradov, asserts that activities in outer space, like all other human activities, should be guided "by the interests of humanity rather than the specific physical properties of this or that sphere, or the peculiarities of the technological means employed to master the sphere". The "interests of humanity" Piradov argues, include the contemporary international law principles of "equality, peaceful coexistence, and cooperation of states, non-interference in one another's internal affairs, etc".²⁷

In 1963 the General Assembly unanimously adopted a "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space", a first draft of such principles having been submitted by the USSR in the 1962 session.²⁸ Significant provisions included the principle that international law, including the Charter of the United Nations, applies to outer space and celestial bodies, and that outer space

26. A.S.Piradov, International Space Law. Moscow: Progress Publishers, 1976, p.22.

27. Ibid, p.24. See Section 3 of chapter IV for an enumeration of what the Soviets regard as the essentials of contemporary international law.

28. Everyman's United Nations. New York: United Nations, 1968, pp.68-69.

and celestial bodies are free for exploration and use by all states in conformity with international law and are not subject to national appropriation.²⁹ After several years of disagreement, the United States and the USSR joined the rest of the General Assembly in creating the Committee on Peaceful Uses of Outer Space(COPUOS), which was to have 28 member states, including the US and USSR. The General Assembly also designated one of the two subcommittees of COPUOS as the world forum for consideration of legal problems arising from the penetration of outer space, a task which it has continued to perform to the present time. By 1967 these new undertakings had led to a breakthrough agreement on a "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies" which was signed by all the major powers simultaneously in Moscow, London and Washington.

In general, the evolution of international law regarding space has paid attention to the following problems:

1. How to establish legal jurisdiction over something which by

by

29. UNESCO, Communication in the Space Age: The Use of Satellites by the Mass Media. Paris: UNESCO, 1968, p.155-6.

treaty agreement is not to be appropriated by states or
30
individuals (corporations).

2. How to legally reconcile the concept of private economic
interest and ownership with the concept of non-ownership or
31
ownership-by-all.

3. How to protect the national interest of states from
hostile acts of other states. Put another way, how to utilize
outer space for the preservation of peace and to prevent its use
for war.

The evolving controversy over the uses and control of the
direct broadcast satellite has confronted these questions in a
number of ways as will be seen in a closer examination of that
controversy.

30. This same problem also became central to the UN-sponsored
treaty negotiations over mining the moon and mining the seabed;
the Moon Treaty is stalled and the Seabed Treaty has come into
operation without U.S. ratification. In both cases the
opposition to U.S. participation came from corporations which
opposed the idea of state control or international control over
their long established private property rights.

31. The Western legal theorist Lissitzyn, op.cit., p.64-5, feels
that the tradition of private interest groups in the West is one
of the chief sources of respect for international law itself:
"...the needs of private persons carrying on economic activity
across national boundaries....serve[s] to strengthen the role of
international law in governmental policies".

SECTION 3 - DIRECT BROADCAST BY SATELLITE AS A
SUBJECT OF INTERNATIONAL LAW -- SOME KEY QUESTIONS

To understand how evolving space law has affected the development and future of international mass communications by satellite, it will be useful to outline some key events of recent space communication history. That history may be considered in two segments, the first period beginning with the launching of Sputnik in 1957 and ending in 1972, with the 101-1 vote in the United Nations General Assembly which requested COPUOS (Committee on the Peaceful Uses of Outer Space) to "elaborate principles governing the use by states of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements"³² The second period covers events since 1972 and will be taken up in a later section.

During the earlier period there emerged three interacting trends: 1) the continuation of the hope for a genuinely international worldwide space communication network, 2) the expansion of the already dominant role of the U.S. in space and space communications and 3) the intensification and

32. UN General Assembly Resolution 2916 (XXVII), Nov. 9, 1972.

multiplication of forms of resistance to that dominant role.

We have seen that the idea of an international global communication network was under discussion as early as the Versailles negotiations after World War I. With the evolution of the ITU and the voluntary agreement by states to devise and abide by radio frequency assignments, what came about, in terms of international mass communication by radio, was a pattern of unrestricted broadcasting by any state to any place in the world. That is the approximate situation at present. By ITU agreement, states are responsible for internal licensure of broadcasters, or are themselves broadcasters: they register with the ITU the frequencies which are in use within their borders, and they require users to observe the spectrum limits which have been internationally negotiated for specific uses (for example, shortwave broadcasting is permitted only in certain segments of the spectrum; other segments are reserved for radio between airplanes, marine navigation, etc.). Broadcasters then transmit their signals to whatever targeted population they wish to or can reach. Up until World War II, as we have seen, there were no international restrictions as to content, except for the abortive League of Nations effort (see Chapter II, Section 4). It should be noted that the adoption of the UN charter in 1945 added new language to the body of international law which could be viewed as applying to all international communications, including radio transmissions by member states, for example the pledge of all

signator states to promote and encourage human rights and fundamental freedoms for all (Article I, section 3), and to promote "universal respect for, and observance of human rights and fundamental freedoms" (Article 68).³³ The UNESCO Constitution (1945) committed its signatories "to develop and to increase the means of communications between their peoples" and in 1946 the General Assembly declared that "freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated." Further, in November 1947 the General Assembly adopted a resolution (110(II)) specifically prohibiting war propaganda. However at the time these momentous diplomatic policies were being formulated their applicability to international broadcasting was not widely noted.³⁴ Members of the ITU, meeting at the first post-war conference, in Atlantic City were concerned less with the dangers

33. For a summary of mass media initiatives undertaken by the UN and UNESCO see Hilding Eek, "Principles Governing the Use of the Mass Media as Defined by the United Nations and UNESCO", pp. 173-191. In Kaarle Nordenstreng and Herbert I. Schiller, eds., National Sovereignty and International Communications. Norwood, N.J.: Ablex Publishing Corp.

34. The official report to the Congress from the U.S. delegation to the ITU Atlantic City conference held few indications of the troubles that lay ahead. However, while the matters of "free flow" or unwanted signals had not been at issue, the conference did adopt a provision which required all ITU members to agree to be bound by all ITU Regulations. The U.S. delegation reported that "since the Delegation was unable to agree to this requirement, it made suitable reservation at the time the convention was signed." p. 101 of "Summary and Conclusions", International Telecommunication Conferences. Atlantic City, N.J. May-Oct, 1947. Report of U.S. delegation. Washington, D.C.: USGPO, 1948.

of unwanted propaganda broadcasts than they were with improved allocation of frequencies and elimination of interference. As we shall see, the 1947 General Assembly resolution against war propaganda gained new prominence when it was incorporated into the 1967 Space Treaty.

The successful launching of a space satellite in 1957 made real what had long been foreseen, that is that an artificial earth satellite could transmit far more effective radio signals than had been possible with shortwave or other conventional radio. Further, since the signal sent via satellite utilizes the ultra high microwave segment of the spectrum (traveling toward the earth in a straight line rather than bouncing off the ionosphere as with shortwave signals) it was recognized as having the capability of transmitting high quality television signals as well as radio. As the knowledge of this new technical capability spread, many groups and interests began to explore its possible uses. Prominent among these was UNESCO, which sought to stimulate international approaches to the utilization of the broadcast satellite,³⁵ and the United Nations, which in the sixties as we have seen, formulated legal principles governing outer space activities and set up a standing committee on the peaceful uses of outer space. In 1963 the ITU, at one of its periodic radio conferences, increased its allocation of radio

35. See bibliography for listing of relevant UNESCO publications.

frequencies for space activities from one per cent of the spectrum to 15 percent. In 1962 the United States Congress had created COMSAT with the mandate to develop a worldwide communications network. COMSAT in 1964 began to fulfill that mandate by creating Intelsat, a consortium of scores of countries each of which by becoming a member in effect bought shares in the United States' satellite-launching capability (via NASA) and in COMSAT's operating capability.

In 1965 NASA launched the first commercial communication satellite, thus putting the U.S. firmly into the lead role in developing a framework for a worldwide communication network. Further public evidence of this role was to be observed in the 1968 agreement between the US and India to conduct an experiment using direct broadcast satellite to reach the remote villages of India.

Obstacles in the path the United States had chosen began to accumulate in small ways, seemingly unrelated to international space communications. The sixties were a decade of growth in UN membership (from 76 in 1960, to 119 in 1970). The new members were generally poor states just emerging from colonial domination and exploitation, and most were eager to obtain a greater share of the wealth and technical expertise accumulated in the West. The U.S. achievements in satellite broadcasting were of particular appeal, promising enormous potential for education and economic development. The new UN members became increasingly

interested in the promotion and regulation of DBS and in 1968 they began to bring the matter under their jurisdiction by voting in the General Assembly to authorize the UN Committee on the Peaceful Uses of Outer Space to set up a Working Group to study and report on direct broadcast via satellite, including the legal implications.

Management of the delicate business of constructing a worldwide communications network under U.S. sponsorship was further complicated by the continuing Soviet distrust of U.S. initiatives and by Soviet insistence on establishing and extending its interpretation of international law as a way of regulating new areas of international relations. We have seen how the space law principles originally put forth by the Soviet Union were subsequently adopted by the United Nations. In 1967 these guiding principles were hardened into international law in the form of the Outer Space Treaty, signed by the U.S. and the USSR as well as most other UN member states. During these years the USSR was also expressing criticism of the emerging U.S. plan for Intelsat, which as a semi-private corporation did not allow its member states equal status but weighted the voting in favor of the major stockholders (of whom the U.S. was the largest).

36. C. Wilfred Jenks, in his comprehensive Space Law, New York:Frederick A. Praeger Publishers,1965,p.177, alludes ironically to these Soviet proposals as "the twelve tables of the law of space".See also Carl Christol,The International Law of Outer Space.A U.S.Naval War College Blue Book, International Law Studies Series. Washsington,D.C.:USGPO,1966.

The socialist states pointedly refused to become Intelsat members thus dimming the promise of its global development.

Finally, the Western European countries began to evidence unwillingness to be less than equal partners in the U.S. plan for Intelsat. They announced in 1964 the formation of their own plans to launch space communications satellites through agencies under
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their control.

The culmination of the growing resistance to U.S. domination of international space broadcasting came in 1972 when the United Nations General Assembly voted, the United States dissenting, to assign to COPOUS the task of developing recommendations for regulating or restricting DES.

During the unfolding of these events, legal scholars and international lawyers were applying themselves to the philosophical and moral questions of law which might or should be applied. In 1956 the International Institute of Space Law had been called into being by its parent body, the International Astronautics Federation (formed in 1951), and in 1957 the IISL held its first annual colloquium. With the passage of years it has provided an important forum for the diverse views of jurists

37. These, known variously as ESRO and ELDO, have continued to make progress, not without many difficulties. See William Schauer, The Politics of Space: a comparison of the Soviet and American Space Programs, New York: Holmes and Meier Publishers, Inc., 1976, p. 234.

from the U.S., West Europe, the USSR and other socialist states, and, though rarely, from the Third World. Scholarly studies, books and law journal articles have also been part of the accumulating theory and speculation. In their writings the legalists, like the sociologists, tend to be biased in favor of their own cultural and national base, although the tradition of the law, with its emphasis on caution, weighing both sides of an issue, and reserving judgment appears to leaven their ethnocentrism. To maintain the appearance of objectivity is all the more important to them because of the proximity between law and policy, a relationship which tends to put the specialist in international law in the position of influencing and shaping his or her nation's foreign policy. Their career interest as lawyers may also be factor, as is suggested by Lissitzyn, who opines that as an influential group of professional men and women, international lawyers "have an occupational interest in the existence and maintenance of the rule of law".³⁸ It will be useful to identify the main areas of judicial concern about the direct broadcast satellite controversy as these have emerged from the space law literature.

38. Lissitzyn op.cit., p.65.

International Law in Outer Space?

A central question has been whether or not international law is to be applied in outer space. In the early years of discussion about space law there were few allusions to the specific problem of DBS. The focus was on the legal status of outer space. Did existing international law apply in outer space? Both Soviet and Western scholars agreed that it did. As already noted in Piradov's book, the Soviet view from the beginning has been that the extension of international law into outer space was a fundamental requirement. Writing in 1959, the Soviet jurist E. Korovin³⁹ argued that while "national sovereignty does not extend to cosmic space, it does not follow that space is to be considered as some kind of legal 'vacuum' where no restrictions on freedom of action prevail. All universally accepted rules of international law (inadmissibility of the use of force in solving international disputes, non-injury of foreign citizens and their property, governmental responsibility for the activities of their representatives, etc.)⁴⁰ apply to the Cosmos as well". However the ratification of the Outer Space Treaty in 1967, even with its clear statement that international law applies in outer space, did not settle the

39. Korovin is described by C. Wilfred Jenks as an eminent international lawyer who was in 1965 the Chair of the Scientific Research Committee on Legal Problems of Outer Space of the Institute of Law of the USSR Academy of Sciences. Jenks, op.cit., p.133.

40. E. Korovin, "International Status of Cosmic Space". International Affairs (USSR), No.1, 1959, pp.54-59.

matter completely.

We have commented earlier on the ambiguity which characterizes perceptions of the meaning of international law. If it embodies, as the Soviet experts assert, such "new principles and norms" as non-aggression, peaceful settlement of disputes, self-determination of peoples, peaceful co-existence, disarmament, respect for human rights and the prohibition of war propaganda, then the extension of such principles to cosmic space would provide a framework for the regulation of DBS as well as all other space activities undertaken or to be undertaken by states. But Western jurists are less certain and specific in their commentaries. After an exhaustive study of the literature of space law C. Wilfred Jenks concluded that it contained, perhaps "inevitably", an excess of caution and of fancy, though he felt these were balanced by practicality. On the question of whether the jurisdiction of international law extended into outer space he himself tended to evidence an excess of caution. Rather than examining the question directly, he buried it within the question of space being free for exploration and use by all states and not subject to national appropriation. Taken together, these questions, he felt, formed a general theme in space law literature, and by 1965 had been "placed beyond the pale of reasonable controversy"⁴¹ as a result of having received

41. Jenks, op.cit., p.170.

the unanimous endorsement of the General Assembly in 1961 and 1962. After considerable discussion of related matters, he again turned his attention to the issue of international law being extended into outer space. His comments are illustrative of the uncertainties and unresolved nature of contemporary international law, reflecting as it does the continuing political, military and class tensions of our time.

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.....it is perhaps sufficient to say that it is unnecessary to project into space the innumerable doctrinal controversies of the theory of international law and that our objective should be rather to thread our way among the difficulties presented by differences of a doctrinal nature with a view to assisting in preparing the way for the practical solution of concrete problems.

Possibly having in mind the oft asserted definitions of international law emanating from Soviet jurists, he goes on:

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One of the questions which [remains] unresolved may be of more than doctrinal importance, namely the question of how much firm law can already be said to exist. But as the effect of attempting to define how well-established the law has become is frequently to weaken rather than to strengthen the degree in which a sense of legal obligation already exists it would seem preferable to leave the determination of the measure in which particular principles or rules have become authoritative in character to be settled as need arises by the practice of states and future treaties and judicious decisions.

42. Ibid, p.174.

43. Ibid.

The century of experience of the International Telecommunications Union in establishing international norms with the authoritative character of the practice of states may be an illustration of Jenks' preference. Its history as an international "lawmaking" body is known to us. Although it began its work long before the emergence of space law, its more recent actions can be viewed as having extended the reach of international law into outer space on a de facto basis. As we have seen, the ITU has accepted responsibility for assigning frequencies for transmission of signals from artificial space satellites, for registering the use of frequencies by member states, and in other ways has assumed regulatory functions over non-military satellite communications. True, ITU regulations, like most of international law, are not enforceable. States are not obliged to adopt them and adherence to ITU allocations of certain segments of the spectrum is voluntary. (Jamming is one way that states have themselves accomplished a degree of enforceability.) Further, it must be remembered that from the beginning ITU agreements have specified that military installations of member states are not within their

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jurisdiction.

In a series of lectures in 1968 on international law and the uses of outer space, the prominent British jurist J.E.S. Fawcett

44. J.E.S. Fawcett, International Law and the Uses of Outer Space. Manchester: Manchester University Press, 1968, pp. 62-63.

commented on the jurisdiction of the ITU over satellite communication although he did not specifically cite the ITU jurisdiction as an extension of international law to outer space. Possibly, like Jenks, his preference was to see matters in terms of the functional activity involved, e.g. radio communication, thus not raising the issue of a general extension of international law.

Despite these fine points, by 1972 most legal authorities were citing and accepting the idea that international law applied to activities in outer space, including the extension of ITU jurisdiction to space communication. But the levels of enthusiasm about and interest in the issue were markedly different. Soviet and East European writers cited the Outer Space Treaty as worthy justification, and elaborated on its meaning. Western jurists moved more hesitantly, content with noting the treaty's proviso about international law and at the same time reminding readers of the uncertainty and ambiguity of its meaning.

State Sovereignty in Space?

Coupled with the matter of the applicability of international law to outer space is a second large issue: the question of state sovereignty in space. The Outer Space Treaty provides for free use of outer space in accordance with

international law, prohibits national appropriation of outer space, and makes states the sole responsible entities for observing and enforcing its provisions.

In examining the meaning of this complex duality -- freedom to use but no freedom to appropriate -- it is useful to review the struggle over control of air space, which goes back to the Paris conference of 1919 and flows through the years of the League of Nations. During the League's efforts at disarmament in the twenties there arose support for "world air transport under an international authority" as one way of accomplishing "air disarmament",⁴⁵ that is, to prevent the possibility of foreign aircraft entering the air space of unwilling countries. It is an interesting sidelight, foreshadowing the views of some present-day space lawyers who argue in favor of a global system of international communications as a means of avoiding the problem of sovereignty with regard to DBS.

Another foreshadowing occurred at the International Civil Aeronautics Organization (ICAO) convention in Chicago 1944. The argument there was over the question of extending a state's sovereignty into the air space over it. The U.S. sought to establish the right of commercial airplanes to freely use air space without regard to state sovereignty: "At the conference in

45. Julio Alvarez del Vayo. Give Me Combat. Boston: Little, Brown and Company. 1973, p.466.

Chicago that preceded the adoption of the Chicago Convention of 1944, the United States had pressed initially for a central principle of the freedom of the air, to be concretized in one overarching body of international law principles and to be institutionalized in the one paramount international agency".⁴⁶

If such a policy had been adopted, a world air transport system would presumably have evolved under the ownership and control of the few Western European states and U.S. corporations then in a position to move forward. But the U.S. position did not prevail in Chicago; the sovereignty of every state over the air space above its territory was reconfirmed in the ICAO agreement, and the result has been the proliferation of separate air transport systems, most of them state-owned (except in the U.S. where they are state-subsidized but privately-owned). A parallel may be observed in the present controversy over satellite mass communications, with the U.S. again arguing for the development of satellite-transmitted radio and television unrestrained by the sovereignty of those states where the signal would penetrate.

Korovin took up the question of outer space sovereignty in 1959 arguing the inapplicability of Roman civil law ("whose the -----

46. McWhinney, *op.cit.*, p.20. According to Lincoln Bloomfield (in Outer Space: Prospects for Man and Society, Englewood Cliffs, NJ:Prentice-Hall, Inc., 1962, p.156) the Chicago Convention provided that neither piloted aircraft nor pilotless aircraft could be flown over states without their permission.

land, his also the sky"), air law (from the Chicago and Paris treaties), the law of private property, legislation of individual countries, maritime law, or the law of the Antarctic. He also rejected the interpretation of some Western jurists that "since no country has protested against the launching of Soviet and U.S. earth satellites this may be interpreted as 'freedom of outer space' established by universally recognized precedent". Korovin argued that since the USSR ("just as the USA") had put its satellites into outer space under the mutually agreed-to IGY program in 1957, there was, in effect, "preliminary consent of all the countries concerned"⁴⁷. If the concept of sovereignty was not applicable in outer space, as Korovin insisted, there were nonetheless rules which he felt did apply, and these rules derived from existing treaties and agreements made by states and enforced by them. For example: "inadmissibility of the use of force in solving international disputes, non-injury of foreign citizens and their property, governmental responsibility for the activities of their representatives, etc."⁴⁸. Further: "The presence or absence of separate specialized legal systems...cannot abolish the generally recognized principles of law prevailing in our time wherever people are active on land, sea, air or space." He continued: "In this, and only in this sense, can one speak of 'freedom of space' or 'open space', that

47. Korovin, op.cit., p.55.

48. Ibid, p.58.

is, the right of each country to use cosmic space as it sees fit⁴⁹ without doing harm or causing injury to other states". A western view of the problem of sovereignty was set forth in 1961 by the political scientist Lincoln Bloomfield at a conference on outer space held by the Americanan Assembly. He reviewed various international law definitions of sovereignty starting the the Pope's Bull of 1493 which divided the New World between Spain and Portugal, and including the "hinterland principle" which in the sixteenth and seventeenth centuries legitimized the practice of colonizers in America and Africa by asserting that those who claimed the coast were automatically assigned sovereignty rights over the contiguous inland regions. Tactfully silent on the legal justifications for the nineteenth century wars of conquest and empire-building, including the Berlin Conference of 1885 where European states simply awarded themselves sovereignty over most of Africa, Bloomfield completed his historical review with a reference to the twentieth century evolution of "the doctrine of effective occupation", under which "sovereignty requires possession and also occupation with intent to make it⁵⁰ permanent".

None of these once acceptable international laws seemed to Bloomfield to be applicable to outer space and he turned to the

49. Ibid, pp.58-59.

50. Bloomfield, op.cit., p.159.

suggestions of Western jurists that space "not be considered
susceptible to appropriation by any nation".⁵¹ Noting that
Presidents Eisenhower and Kennedy and UN Secretary General Dag
Hammerskold had all proposed there be no sovereign claims in
space, Bloomfield recommended that this idea be incorporated into
a treaty and regretted the tendency of Western statesmen "to
leave these matters to chance". He expressed his belief that
such a principle was becoming established de facto as a result of
the satellites already in orbit: "Ever since Oct. 4, 1957...a
precedent has existed for the free use of outer space without
objection by the state over which the satellite has passed".⁵²

As we know, the extension of state sovereignty into outer
space appears to have been ruled out by the 1967 Space Treaty but
a number of legal questions about it have continued to be
examined by international lawyers, particularly in the area of
broadcasting. In one of the many Western, primarily United
States, law journal articles to appear during the first decades
of the space age, M.S. Geston raised the question of how a nation
or bloc might be prevented from transmitting broadcasts
indiscriminately. Indirect action by the offended state could
include trade sanctions and diplomatic protests; direct action
would be by jamming. Geston felt that the legal justification

51. Ibid, p.158.

52. Ibid, p.159.

for such action might be based on "a theory of penetration by the radio signal of the sovereign territory", a view which does not appear to touch on the question of sovereignty in outer space.

Geston thought that defensive jamming might be augmented by going after the satellite itself, either by interfering with the earth-to-satellite originating signals or by impairing the

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satellite. When Geston was writing, in 1970, the drastic implications of the latter course were not seen to be a "realistic alternative" since only two or three nations had the capability to accomplish it. But he also added that jamming of signals from space was relatively ineffective. (Geston explained that while jamming works against short wave radio, and is used today by a number of states to block out unwanted shortwave broadcasts, it is extremely difficult to make it effective against signals beamed from a satellite -- to jam such signals is like trying to flash a flashlight directly into the reflector of another flashlight.)

A searching examination of the issue of sovereignty in international space communication was made in 1971 by C.H. Alexandrowicz, who found sovereign-mindedness to be "the determining element in the definition of the legal status of the

53. M.S.Geston, "Direct Broadcasting from Satellite; the Case for Regulation", New York University International Law and Politics, Spring, 1970, p.81.

54. Charles Henry Alexandrowicz, The Law of Global Communications. New York: Columbia University Press, 1971.

space in which global communication services operate".

Alexandrowicz cited precedents set by the international law which governs civil aviation noting that the Chicago convention provided that only states were to have the power to register aircraft. From this it followed that the laws of the registering state prevailed over events occurring inside the airborne vehicle, so long as these events produced "no effects outside the

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vehicle". As lawlessness (presumably hijacking) on aircraft became a concern, new provisions were added (in 1964) to the Chicago Convention, permitting the application of the laws of the territory over which the unlawful act occurred. "In this respect," Alexandrowicz notes, "the situation is different from the legal regime on board ship, which follows the law of the flag and presumably on board satellite, which, apart from the short period of launching and splashdown, finds itself in outer space beyond the reach of state sovereignty and thus follows the law of

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registration."

Alexandrowicz poses the question of why global communication "should be treated separately from regional or inland communication", in other words why should the issue of state sovereignty over space communications be subject to international

55. Ibid, p.154.

56. Ibid, p.155.

57. Ibid, p.156.

rather than national(internal)law:

The answer is that world communication is a social reality which, because of its indivisibility, is of special significance involving the whole family of nations and the law of nations as a universal legal system, irrespective of geography or political ideology.

The regulations and jurisdiction of the ITU are presumably
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seen as part of that "law of nations":

It can be inferred from the advisory opinion of the International Court of Justice in the Reparation of Injuries case that if the vast majority of the family of nations adheres to an organization the latter enjoys the benefits of objective international personality. Its personality in international law is valid not only vis-a-vis members but, erga omnes, with global legal validity. This rule applies not only to the United Nations but also to the specialized agencies...

Alexandrowicz is aware of the tenuous "paralegal" character of many of the regulations emanating from the specialized agencies, including the ITU. Absent enforcement power, ITU requirements are not legally binding although there is always the possibility of expelling the offending state from the United Nations (membership in the ITU is conditional on membership in the UN). Alexandrowicz suggests this evolving paralegality "may indicate a wider trend in the development of contemporary international law, that is, the growing and often inescapable

58. Ibid.

dependence of states on participation in activities of global and indivisible concern, where the principal sanction is exclusion from participation of those states that refuse to comply with universally accepted standards".⁵⁹

In sum, on the issue of state sovereignty there appears to be consensus that international law precludes the making of territorial claims in outer space; however in space vehicles including space communications satellites the laws of the state of registration apply. However, when space objects, including electronic signals which emanate from them, affect states other than the state of registration, "international law" applies. Presumably this international law would mean the rules and regulations of the ITU as well as the provisions of the UN Charter, the Outer Space Treaty, and other international treaties that are applicable. While the Soviet theorists assert this as a fundamental principle, the Western authorities appear to regard it as arising out of actual conditions.

Individual Autonomy in Outer Space?

Closely related to the issue of state sovereignty in space is the question of individual actors and the degree to which they are autonomous when they are in outer space. The pertinence of -----

59. Ibid, p.157.

the question for DBS arises out of the private nature and presumed autonomy of enterprise in some capitalist states; jurists have repeatedly taken note of the possibility of private communications corporations conducting broadcasts via space satellites, and the history of shortwave international broadcasting records a small number of U.S.-based private ventures, some religious and some conducted for private profit.

From the beginning, Soviet jurists have held that states are the only entities which are subjects of international law. Alluding to the problem of damages which might be caused by space objects, Korovin in 1959 asserted that since launching of satellites was "under present conditions...solely under the auspices of governmental bodies, full responsibility for eventual⁶⁰ damage lies with the government concerned". This assumed that private bodies either would not get into the business of launching or operating satellites or that if they did, their governments would assume responsibility for them. This view later became one of the Outer Space Principles adopted by the UN and in 1967 it became Article VI of the UN Outer Space Treaty.

The Hungarian space law authority Gyula Gal expanded on this⁶¹ issue in 1969. Noting the provisions of the Treaty (Article

60. Korovin, op.cit., p.56.

61. Gyula Gal, Space Law. Dobbs Ferry, NY: Oceana Publications, Inc. 1969.

VI), he stated that "insofar as....international law is concerned, the subjects of space law can be only states and international organizations". Further, "...international space law will never directly confer rights or obligations on citizens".⁶² Gal provides a brief history of the framing of the principle which deals with private space activities. The USSR draft had provided that only states could carry out exploration and use of outer space. The British draft would have allowed equal exploratory and use rights to all states and their citizens. During the debate there were allegations that the Soviet proposal was designed to undermine the economic system of other states: "Canadian delegate Cadieux...explained that it would be impossible for many states to deprive a private enterprise of the expected -- considerable -- commercial profit of the communications system, without prejudicing their own principles".⁶³⁶⁴ Gal concludes:

When the legal system of a state permits space activities on the international plane by private organizations, such activities must be carried on in accordance with the rules of international law and on the responsibility of the state capable of granting authorization and obliged to exercise supervision.

Gal's description of the problem iterates the policies of

62. Ibid, p.37.

63. Ibid, p.142.

64. Ibid, p.142-143.

the Soviet Union. It is the kind of analysis that is rare in
65
Western writing on the subject:

Freedom of use and exploration of outer space is vested in states. The Space Treaty leaves no doubt that only states can be the subjects of this freedom -- as a right of international law. Neither the Treaty nor the customary-law rules confirmed by it can directly empower individuals or private organizations. In one of the states carrying on space activities -- in the Soviet Union -- the social-economic system itself excludes the possibility of private organizations participating in space ventures. Not so is the case of other space powers. For example, in the United States, in accordance with the economic system prevailing there, private companies play an ever increasing role. Thus, for instance, the Telstar communications satellite launched July 10th, 1963, was the joint venture of NASA and ATT (American Telephone and Telegraph Co). Not long thereafter the U.S. legislature passed President Kennedy's bill which was enacted as the Communications Satellite Act of 31st August, 1962. The Act enables any such commercial company to operate a cosmic telecommunications network as can avail itself of the cooperation with a state authority -- the NASA -- for the launching of the satellites.

We are already familiar with this issue, which had its beginnings with the 1875 St Petersburg Conference when the U.S. government stayed out of the international telegraph convention because membership might appear to obligate it to exercise supervision over the private telegraph company or companies which operated within its domain. The same stumbling block kept reappearing at each new treaty-making conference and had profound effects on the various agreements which came into being. But by

65. Ibid, p.141.

1967, when the U.S. signed the Outer Space treaty, world power arrangements, the needs of the industry, and international public opinion were important factors in mooting the issue. For those reasons and perhaps for others, the United States became a party to the Outer Space Treaty, and thereby assumed regulatory responsibility over private entities which already were moving to enter space industries.

Many believe that the ascendancy of more conservative capitalist leaders which has occurred during the last decade has brought a marked change in the willingness of the U.S. to participate in international lawmaking arrangements which are not fully under its own control or which appear to affect the private enterprise commitment or which imply a diminution of state sovereignty in favor of the collective approach which occurs when nation-states act in concert. One example is the so-called Mining of the Moon Treaty which the U.S. and other major powers have been negotiating for a number of years but which has now been defeated by corporate interests who oppose it as an obstacle to long-range planning for profitable private moon-mining operations. Another example is the negotiation for a Law of the Sea, which during ten years of negotiation proceeded in the direction of prohibiting sovereign claims to the seabed, aiming to create instead a United Nations-related agency to control the mining of the seabeds and to share the gains with member states, including the underdeveloped and landlocked. Less than two

months after assuming office, the Reagan administration withdrew U.S. approval of the progress that had been made in these negotiations. "No national interest could justify [yielding] sovereign control of two-thirds of the earth's surface to the Third world" commented Leigh S. Ratiner, a member of the US negotiating team.⁶⁶ In August of 1982 the Treaty was adopted, without the approval of the United States. Had President Reagan and others like him been speaking for corporate capitalism in 1967 it seems doubtful that the U.S. would have been a signatory to the Outer Space Treaty which was not then seen in such a confrontational light.

66. National Review. Vol. XXXIV, No. 7, April 16, 1982, p. 410.

International Space Law for TV signals but not for Radio?

We have reviewed the rise of broadcasting across national borders and its international regulation by treaty, including the pre-world war conventions of 1903-6 and 1912, and the decision in 1932 to combine international telegraphy and radio regulation under the jurisdiction of the ITU. Except for the League of Nations treaty in 1936 which sought to limit the use of radio propaganda by one state against another, there has never been any international effort to establish or limit state sovereignty over foreign radio signals which penetrate the airspace of a state. Nor has there been discussion of any principle of non-appropriation of radio air space by states. The problem has been approached differently, by assigning to the ITU the technical tasks of allocating spectrum segments for certain uses, setting standards, and maintaining a register. The unspoken assumptions of this ITU jurisdiction (which have existed for a considerable length of time and have thereby possibly gained the status of customary law) are that the space through which radio waves travel is free for the use of any state, restricted only by the agreed upon technical regulations of ITU, which have never included the concept of prior consent. The possibility of broadcasting via space satellite caused issue to be viewed very differently. This is due in part to the changed world conditions and power relationships. It is also because the communication space satellite has the capability of transmitting

television signals (as well as radio), and it is television which is today perceived to be a most powerful means of communication and persuasion. Additionally, the use of satellites allows a far greater "reach", eliminating the politically difficult and monetarily costly need for ground radio relay stations in foreign countries, as are now used by the international broadcasting of the United States, the United Kingdom, the USSR and others. Other factors which appear to make communications satellites a more effective mode of international broadcasting are the superiority of the microwave signal (relatively free from the natural interference which distorts radio shortwave signals), the comparative cost efficiency when computed by numbers of viewers, and the low vulnerability of DBS to jamming. It should be added that while DBS can be used for radio as well as television, the proposed "prior consent" rule is limited to television.

For poorer countries (the majority of the world), access to DBS has been seen as a way to speed the combat of illiteracy, to promote agriculture and industry, and to build national consciousness. Conversely, without access to DBS, these countries see themselves as extremely vulnerable to outside penetration which could shape their development in ways not consciously determined by their own internal processes. To this concern has been added the growing awareness that decisions about using direct broadcast by satellite depend on advanced technology, a technology held only by a handful of advanced

nations.

For these reasons DBS came to be seen as a very different phenomenon from previous forms of communication, at once more powerful, more attractive, and more dangerous than the shortwave international broadcasting to which the nations of the world had become accustomed. From the beginning, electromagnetic communication signals transmitted via space satellite, whether television or radio were assumed to come under ITU jurisdiction. In his 1962 study of law and order in outer space Lincoln Bloomfield singled out the ITU's 1959 allocation of radio frequency bands for remote control space vehicles as "the first concrete regulatory measure in the outer space field".⁶⁷ Presumably the decision to accept ITU jurisdiction was based on its long history of regulatory authority over international telecommunication. But what of the fact that such signals moved through outer space? Did that make them subject not only to the ITU but to international space law in general? J.E.S. Fawcett⁶⁸ thought it did: "Commercial broadcasting by [a state by] satellite would be an activity in outer space", he wrote, and thus would be covered by the Outer

67. Bloomfield, op.cit., pp.169.

68. Fawcett, op.cit., p.63.

Space Treaty, on the assumption that a state which was party to the Outer Space treaty would be responsible for the broadcasting enterprise. Lay and Taubenfeld appear to agree: "The usual rules relating to electromagnetic communications apply to the new technology, and the International Telecommunications Union has allocated frequencies for space communications in accordance with its customary procedures."

As the study and use of space satellite communications have proceeded, the Fawcett interpretation has not been widely contested although the continuing political disagreement over regulation and control of DBS makes it evident that the issue is still unresolved. The question is, since broadcasts via space satellite involve space, should such broadcasting activity be subject to international space law (the Outer Space Treaty) as well as to the international terrestrial law of ITU? It is a difference which may be more significant than it appears.

In his Columbia University Press study of the legal status of communication via outer space satellite, Alexandrowicz asserted that "the concept of res communis is now a fait accompli in relation to radio space". He argued that outer space

telecommunications have a legal status similar to traditional radio, including shortwave. This was "felicitous", he felt,

69. Lay and Taubenfeld, op.cit., p.135.

70. Alexandrowicz, op.cit. p.36.

since it meant that "legal development has made it possible to fit outer space activities into the institutionalized legal framework of the spectrum mechanism".⁷¹ Alexandrowicz suggested that somehow radio space might have evolved differently: "If radio space had been legally assimilated to airspace..." This possibility had not ever been considered although it is possible to construct an argument for it: if a state exercises sovereignty over its territory, its waterways and its airspace, why not over its soundwaves? However Alexandrowicz sought to undermine any such claims by emphasizing what he saw to be the prevailing conditions of space communication since Sputnik: "While the task of defining the legal status of radio space has been fraught with considerable difficulties, which have taken much time to overcome....., the definition of the legal status of outer space was consented to by the powers as soon as satellite communication became a reality."⁷² .It is an argument we have heard before, i.e. that the lofting of sputnik and the first U.S. satellites established for every nation a universal right to communicate through space without restraint.

Alexandrowicz goes on to compare the more advantaged status of outer space radio communication with the very different status of air space, which as we have seen was by international law (the

71. Ibid,p.37.

72. Ibid,p.35.

ICAO treaty) put under the sway of state sovereignty. He argues that the existence of state sovereignty over airspace has been a stumbling block to multilateralism, and to improved distribution of world services. With its sovereignty over its air space protected by international law, a state is enabled to bargain with it in exchange for "reciprocal concessions".⁷³ He is making reference, one imagines, to the needs of the market economy which he sees as transcending assertions of sovereignty if they are obstacles to expansion.⁷⁴ Carl Christol in an analysis prepared for the U.S. Navy series on international law, took a view similar to Alexandrowicz. He considered the matter in the context of when a state could legally engage in jamming an unwanted signal. Certainly not on the basis of its established sovereignty over air space, since air space boundaries do not control radio waves. (But if it were a question of national security, there might be justification for jamming -- based on another kind of sovereignty, the inherent right of self defense.)⁷⁵

As the various UN members grew more concerned about the

73. Ibid, p.37.

74. Carl G. Christol, The International Law of Outer Space. U.S. Naval War College, International Law Studies series. Washington, D.C.: USGPO, 1966, pp.407-411.

75. Significantly, Christol held that this justification rested not on the question of from whence the radio signal emanates or the medium through which it passes but rather on the content and nature of the signal.

implications of DBS, a concern which accelerated in proportion to the rapid development of satellite communication capability in the United States, the discussion of its status in international space law became more specific. At the 1972 IISL colloquium, Soviet jurist Yuri Kolossov took up the "seeming contradiction between the principle of the sovereign right of the state to regulate its own broadcast services and the principle of non-interference against political and cultural elements of other states".⁷⁶ He felt there was no contradiction: that non-interference in other states' affairs was "lex generalis" and that state sovereignty over internal broadcast services was "lex specialis", the former apparently being of a higher order, thus legalizing the action of a state to counteract unwanted foreign broadcasts. He enumerated possible counteractive measures: intergovernmental consultations, international agreement prohibiting broadcast of material containing "ideas of war, militarism, racial hatred, apartheid, sadism, pornography and similar ideas condemned by modern international law"; no intentional satellite broadcast from foreign territories "without prior clearly expressed consent...on the part of the government exercising jurisdiction over the corresponding territory." Kolossov argued that Article IX of the Outer Space Treaty "is

76. IISL Proceedings, Vienna, 1972, p.73. Collected in Mortimer D. Schwartz, ed., Space Law Perspectives: Commentaries Based on Vols. 1-15 (1957-1972) of the (annual) Colloquia on the Law of Outer Space. South Hackensack, N.J.: Fred B. Rothman and Co., 1976. Also available through the International Astronautical Federation.

applicable to the telecommunications via satellite" in that it obliged treaty signatories "to conduct all their activities in outer space with due regard to the corresponding interests of all other" signatories,⁷⁷ a provision which he felt mandated international consultations.

In summary, on the question of whether electromagnetic signals transmitted across national borders via space satellite are subject to an international law which is different from that applied to electromagnetic signals transmitted from earth stations (shortwave radio), we see a pattern of legal views not unlike that already established on the related issues of international space law, state sovereignty in space, and the legitimacy of private entrepreneurs in space. Western authorities tend to downplay the question and to promote a free-trade view comparable to what has prevailed in the case of shortwave transmissions. Soviet views underline the applicability of the broad range of emerging international legal measures, including the Outer Space Treaty and the United Nations Charter. The post-World War II history of international broadcasting via shortwave, including the ongoing effort of the United States government's Radio Free Europe and Radio Liberty to undermine the socialist states, is no doubt reflected in the Soviet determination to put DBS in a different category.

77. Ibid, p.74.

The Military Question

Overarching the international legal status of direct broadcast by satellite is the little known dimension of its military uses. We have seen that international law has evolved over centuries partly as rule-making for warfare and more recently as rule-making to avert war. In the present era the latter purpose has come to dominate the pages of international law literature. Legal theorists understandably prefer to dwell on their achievements as peacekeepers and to try to build a legal framework that will preclude the end of liveable existence on earth, via nuclear war. That may be why in the accumulating space communications literature there is so little mention of the vast military uses of satellite communications. The fact is that from the beginning the member states of the ITU exempted military applications of electromagnetic broadcasting techniques from their registration requirements and any other controls they might agree on. The British authority J.E.S. Fawcett⁷⁸ is one of the few who have made note of the fact that the ITU makes no conditions or restrictions on military radio installations of members. Not that the literature is oblivious to the military uses of satellites. Lasswell and others itemized them in a 1963⁷⁹ book on Law and Public Order in Space: reconnaissance, geodetic

78. J.E.S.Fawcett, op.cit., p.62-63.

79. M.S.McDougal, H.D.Lasswell and I.A.Vlasic, Law and Public Order in Space. New Haven: Yale University Press, 1963, p.276

and meteorological observation, communications, navigation, missile-warning, mapping. While the writers made no mention of the ITU exclusion they did give special attention to the communications satellite, noting its superiority over conventional modes of communication (presumably referring to shortwave radio and undersea cable) and concluding that such a satellite communications system "obviously augments the bases of power of a state".⁸⁰

The Outer Space Treaty requirement that all outer space activity be "peaceful" touches on this question of restrictions on military uses of space satellites. Few commentaries on space law discuss the treaty in this connection. Two authorities who did, in 1970, cited the divergence in interpretation of the word "peaceful":⁸¹

Both the Soviet Union and the United States are in agreement that outer space should be used exclusively for peaceful purposes. Both have thus far classified all of their own missions as "peaceful". Here, a divergence in language occurs if, perhaps, not in practice. The Soviet Union, for its definition of a peaceful mission, rules out all "military" activities. It has thus charged that United States high-altitude nuclear tests, observation satellites, and the like, are military, aggressive, and contrary to the principle of peaceful use, although the Soviet Union has itself done all these things as well. The United States, on the other hand, argues that "peaceful" means only nonaggressive and not necessarily nonmilitary. Hence,

80. Ibid, p.371.

81. Lay and Taubenfeld, op.cit. p.16.

military activities which are, on one basis or another, not hostile or aggressive, are permissible.

The continued existence of states and their overriding concern for survival makes the discussion of international law, whether space law or terrestrial, a tenuous and uncertain activity. It is well to recognize this as our own study proceeds and thus to avoid the prevalent practice of subdividing the world into a civilian portion to be studied and managed, and a military portion to be left unscrutinized and uncontrolled. Unfortunately mainstream social analysts have not given the matter of the militarization of space much consideration although with the rising intensity of the arms race more studies are now becoming available, for example Robert C. Aldridge's First Strike! ⁸² The Pentagon's Strategy for Nuclear War ⁸³ and Jack Manno's work.

A single worldwide space communications system?

A recurring theme in space law literature has been the possibility of tying the whole world into a single communications system, an idea which recalls Woodrow Wilson's call for a worldwide radio communication system. The post-Sputnik years saw a revival of the concept in some of the documents generated by

82. See especially Chapter 9 - "Command, Control and Communication", Boston: South End Press, 1983.

83. Arming the Heavens; the Hidden Military Agenda for Space 1945-1995, New York: Dodd, Mead and Co., 1984, and "The Military History of the U.S. Space Shuttle" in Science for the People, Vol. 15, No. 5, pp. 6-11ff.

the United Nations, as for example the preamble of a 1961 UN resolution on outer space which stated that communications by satellite should be available "on a global and non-discriminatory basis".⁸⁴ Significantly the manner of control of such a system was not touched on, except that it was to be achieved through international cooperation.

Eisenhower had spoken supportively of a world-wide communication service in 1960 at the UN, as had Kennedy, in 1962. Krushchev had also proposed "examining the possibilities of cooperation" in establishing world-wide communication systems.⁸⁵

As the issue of unwanted DBS signals began to take shape during the course of ongoing discussion and debate, the possibility of a single "worldwide" system gained popularity. It seemed to provide a way out, although the specifics of such a worldwide system varied greatly, depending on its proponents.

As already noted in earlier discussion of international law, the idea of ending conflict by establishing a world government has seemed to attract more commentary from the West than from the Soviet or other socialist countries, which have repeatedly emphasized the importance and continuity of states as the irreducible fundamental units in international law. Perhaps the

84. Preamble of UN Resolution No. 1721/XVI/D.

85. Jonathan F. Galloway, The Politics and Technology of Satellite Communication, Lexington, Ma.: Lexington Books, 1972, p.263.

difference is due to the fact that, at least up to the 1970's, the West had seemed to be in a position of dominance for whatever negotiations might precede the formulation of steps toward a multinational or supranational approach. The West could afford to theorize about globalism since it very likely would be able to control the outcome of such considerations. On the other hand, spokespersons for the Soviet Union, viewing themselves as encircled, or even embattled, have tended to disregard or reject outright such theorizing as utopian at best and as calculated Western expansionism at worst. It should be added that there is wide diversity of views among Western jurists themselves on this question of international world order; views range from the extreme concept of one world without national sovereignty, to the more moderate call for "an integrated, contextual, and future-oriented approach", to the incremental approach, "the patient work of statesmen",⁸⁶ solving concrete problems by developing proposals to states for their acceptance. Despite these differences there was in the 1960's much Western talk of a single world system for communications. For some, it took a very practical turn as an argument in favor of a planned initiative to create such a world system under U. S. control, as was done in 1962 when the U.S. Congress created COMSAT, which was to become the basis for INTELSAT in 1964. As a COMSAT official put it:

86. Ivan A. Vlasic, , Toronto: publisher, 1970 p.322. He also recommended that DBS be introduced "as a world community project"(p.323).

"Technically, a single worldwide system provides the most effective use and management of the limited frequency spectrum; avoids duplication of and interference between competing systems; improves operating efficiency; and reduces the technical and operating problems of compatibility between different space systems and other services." ⁸⁷ Language from the founding legislation describes the rationale for and the special nature of ⁸⁸ the entity which Congress had created:

The purpose of the Comsat Act was to establish, in conjunction and in cooperation with other countries as expeditiously as practicable a commercial communications network, which will be responsive to public needs and national objectives, which will serve the communication needs of the United States and other countries, and which will contribute to world peace and understanding. In order to facilitate this development and to provide for the widest possible participation by private enterprise, United States participation in the global system shall be in the form of a private corporation, subject to appropriate governmental regulation.

As reported earlier, COMSAT instituted the International Telecommunication Satellite Consortium (INTELSAT) in 1964 and membership grew rapidly; 58 nations had bought shares by 1968. By the 1980's there were 109. The preamble of the Intelsat agreement expressed the signatories' desire to set up a "single global

87. Lay and Taubenfeld, op.cit., p.124, quoting Edwin J. Istvan, Director of International Development for Comsat, speaking in Washington, D.C., May 1966.

88. Sec.102a of the Act.

commercial communications satellite system...which will
89
contribute to world peace and understanding". There were
difficulties however. Bloomfield had foreseen some of them in
his 1961 comments on the "eventual development of a
well-integrated global system of communication satellites linking
the world by telephone, telegraph, radio and television". He
cited, for example the problem of how other countries would feel
about the assignment of space radio frequencies to meet U.S.
needs at the expense of others, and the resentment over the guid
pro quo which was properly going to be expected from "other
90
countries which cooperate."

By the time the Hungarian jurist Gal wrote his study of
space law (in 1967), COMSAT and INTELSAT were well advanced, with
at least five communications satellites stationed in orbit,
providing communication connections across the Pacific and
Atlantic oceans. Gal felt they were leading however not in the
direction of "a unified telecommunication network" but rather
toward a "continued polarization process" around the two space
powers, the USSR and the U.S. He enumerated the flaws which
several jurists from the Soviet and other socialist countries had
identified in the Comsat and INTELSAT entities: namely the
"peculiar intertwining of the private and state character"; the

89. Jonathan Galloway, op.cit., p.266.

90. Bloomfield, op.cit., p.169.

designation of the U.S. corporation COMSAT as the manager of
INTELSAT; and the absolute majority held by the U.S. contingent⁹¹
on the governing committee of the INTELSAT consortium.

The USSR was very critical of the initiation and development
of COMSAT and INTELSAT. It objected to the provision that
Intelsat membership was open only to members of ITU, a condition
which they insisted put the claim to universality in doubt and
violated "the principle of sovereign equality of states". The
Soviet jurist Vereschetin commented on COMSAT-INTELSAT's attempt
to prohibit Intelsat members from participating "in the
establishment or use of other international space communications
systems",⁹² a proposal which he felt contradicted the Outer
Space Treaty specification that outer space "shall be free for
exploration and use by all states without discrimination of any
kind on a basis of equality..."⁹³ It was the Soviet view in 1969
that "a genuinely universal [satellite] communications system"
could develop only through a "spirit of cooperation on the part
of all states and rejection of attempts to set up in an

91. Gal,op.cit.,pp.264-266.

92. This proviso was presumably designed to prevent INTELSAT
members from joining the rival system, Intersputnik. In an
interesting way it echoes those earlier efforts, by British
Marconi, and the GE cartel in South America, to use
non-reciprocity to keep out competitors.

93. V.S.Vereschetin, "Legal Questions of Satellites
Telecommunications at the Washington Intelsat Conference",paper
given at IISL colloquium,Mar del Plata, Argentina,1969, p.17. In
Schwartz,op.cit.

international communications organization monopoly of one state
94
or group of states".

In the event, the effort to prevent INTELSAT members from participating in other space communications systems was not totally successful. European countries wanted no such restrictions; a compromise provided that any public international satellite systems set up by INTELSAT members outside of INTELSAT would be such as to avoid "significant economic harm" to
95
INTELSAT.

The other challenges to INTELSAT procedures were refuted by, among others, Richard R. Colino, COMSAT's legal counsel, speaking at the Space Law Colloquium in 1970 (in the 1980's he became INTELSAT's Director General). Colino pointed out that 137 nations were members of the ITU and that those few which were not were of "miniscule" importance in international communications (they included China, North Vietnam, North Korea and East Germany, which helps explain the Soviet position). INTELSAT's voting procedures which gave a dominant role to the U.S. were also defended: "The principle that a member's [financial] investment in the organization and its vote in its governing body should be

94. Ibid.

95. Marcellus S. Snow, "Intelsat: An International Example", Journal of Communications, Spring, 1980, p. 153. Snow saw this outcome as a victory for the U.S. and added: "undoubtedly, American hegemony in synchronous rocketry exerted much of the influence leading to the ultimate outcome."

related to its use of the system is probably the most objective criterion which can be employed in an organization such as
96
INTELSAT".

At the 52nd Conference of the International Law Association in Helsinki in 1970, the Soviet representative reported on the development of the Soviet-inspired multi-nation communications satellite system, Intersputnik, a move which in effect put an end to the hopes of INTELSAT to become the single global system. But despite the widening gulf between the U.S. and the USSR on the INTELSAT issue, space law theorists continued speculating hopefully about the possibility of a single world system, citing their belief that in deliberating on the rules to govern the use of telecommunication satellites, "the jurist must bear in mind the high destiny of man in his relations with fellowmen of all
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the planet". A compilation summarizing the first 15 years of the proceedings of the International Institute of Space Law, took note of Institute discussions about the possibility of creating a new UN space agency which could be made responsible for space telecommunications as well as other space activity. Intelsat was considered as a possible candidate for taking on the telecommunications portion of such a new agency. On the same

96. Richard Colino, "Reply to Mr. Vereschetin" at 13th Space Law colloquium, IISL Proceedings, Constance, Federal Republic of Germany, 1970, pp. 246-247. In Schwartz, *op.cit.*

97. Mortimer Schwartz, *Space Law Perspectives, op.cit.*, p. 207.

topic a Belgian jurist, Julian G. Verplaetse, told one of the colloquia sessions of the imperative need to create a world control system; INTELSAT and Intersputnik could not "compel the universal interest of the world body politic"; there should be "a⁹⁸ new authority for outer space telecommunications".

Despite the hope that the problem of the direct broadcast satellite might be resolved through the mechanism of a supranational network, owned and operated by all the nations, this was an almost utopian view and frequently was used, wittingly or unwittingly, as an argument favoring the rapidly⁹⁹ growing reach of COMSAT-INTELSAT. For example, M.S.Geston, suggested that:"a commercial [system], controlled by votes proportional to investment" would be a promising approach; though if it were to be Intelsat, it would have to distance itself from the U.S. presence which would be difficult to do "without destroying...[INTELSAT's] ability to draw upon the technology and¹⁰⁰ support of the leader in space technology". In the event, not only was Intersputnik to become an INTELSAT competitor but also the Western European consortium led by France which entered the field during the 1970's with ESRO and ELDO. By the mid-1980's this new agency had launched a number of communications

98. ibidp.363.

99. Ibid,p.85.

100. Ibid,p.93.

satellites and begun to attract customers among U.S. corporations as well as other nations.

The above account of international legal questions about direct broadcast by satellite across national borders provides indicators of accumulating tension over the differing viewpoints. As Comsat-Intelsat expanded and U.S. technology gained ground it became apparent to other nations that there was a clear likelihood that the U.S. or corporations within the U.S. would develop a television broadcasting capability by satellite to transmit commercial or government signals to home receivers in other countries. It had not gone unnoticed that the U.S. had sought unsuccessfully at an ITU conference in 1971 to get the members of the ITU to agree to allocate for satellite broadcasting a segment of the frequency spectrum below UHF which would have permitted reception of DBS by television sets already in the hands of the "general public." As will be noted later, the ITU did allocate frequencies for DBS in 1971 but in the higher range where there was less congestion and no home television use was technically possible. ¹⁰¹ As we know, the issue was finally joined in the 1972 session of the United Nations, when by vote of 101 to one the General Assembly asked the COPUOS to develop guidelines for the regulation of such

101. See Kathryn M. Queeney, Direct Broadcast Satellites and the United Nations. Alphen aan den Rijn, The Netherlands: Sijthoff and Noordhoff International Publishers, 1978, p.83.

broadcasting with a view to formulating a treaty on the matter.

SECTION 4 -- THE DBS DEBATE IN THE UN

The substance of the legal debate over DBS in the years following 1972 was influenced by key decisions made in three international bodies, the ITU, UNESCO and the UN, as well as by the larger political context, including the continuing detente between the USSR and the U.S., the resurgence of western Europe, and the increasing solidarity of a maturing Third World.

In 1971 the ITU's World Administrative Registration Council(WARC) had assigned frequencies for the use of direct broadcast by satellite and at the same time had adopted a regulation which required coordination between broadcasting and receiving nations prior to the activation of a communications satellite. The regulation, No. 428A, contained the following language:

In devising the characteristics of a space station in the Broadcasting Satellite Service, all technical means available shall be used to reduce, to the maximum extent practicable, the radiation over the territory of other countries unless an agreement has been previously reached with such countries.

102. From A.Berrada, "Frequencies for Broadcasting Satellites". International Broadcast Institute Monograph series. London: IBI. 1972.

It was an action of primary importance to the issue of "prior consent" and one commentator opined that the ITU members would not have agreed to allocate frequency bands for satellite broadcast if this provision had not been agreed on at the same time.¹⁰³ We will return to this development and its effect on the DBS debate.

In another international arena in 1972, UNESCO concluded its long deliberations on the issues surrounding direct broadcast by satellite with the adoption of "The Declaration of Guiding Principles on the Use of Satellite Broadcasting for the Free Flow of Information, the Spread of Education and Greater Cultural Exchange".¹⁰⁴ This called for states to reach or promote prior agreements for satellite broadcasts into other states, and proposed restrictions on content. Later that year the topic of regulations came before the United Nations itself as a result of the Soviet Union's proposal for a treaty to specify limits on the content of television broadcasting by satellite, and to prohibit the sending of television broadcast signals via satellite into a country without that country's consent. The General Assembly did not accept the Soviet proposals but decided there was a need for principles governing DBS and voted to request the COPOUS to develop them. Though a negative vote was cast by the U.S., it

103. Ibid.

104. Reprinted in UN Doc. A/AC. 105/109 (1973).

subsequently joined without demurral in the COPUOS deliberations on the issue, deliberations which were to continue for more than ten years.

Detente, an apparent relaxation of the hostility and mutual distrust between the U.S. and the USSR, was in part attributable to a growing interest in the United States in expanding trade relations with the socialist countries. It also could be credited to the growing evidence of the Soviet Union's nuclear capabilities, which made it less willing to passively accept the U.S.'s long established encirclement policies, and brought about a recognition in the U.S. of the desirability of finding mutually advantageous ways of coexisting. Perhaps the high point of the detente cycle came in 1975 with the joint manned space flight and the signing of the Helsinki Agreement. Scientific contacts, especially in space-related activities, continued throughout the decade.

The maturation of the European Economic Community and the Council of Europe, (its parliamentary arm in Strasbourg), as well as the resurgence of Japan and the Federal Republic of Germany, also had significant effects on the United States' dominant role both in NATO and in the world market, where U.S.-based corporations had long enjoyed commercial and technological supremacy arising out of the aftermath of the war. In the area of communications satellites, the success of the European satellite consortium introduced a competitive alternative to

Intelsat, as earlier noted.

Finally, many of the non-aligned countries, where poverty, illiteracy and even famine continued undiminished, were pressing forward with their efforts to change traditional patterns of world wealth and power distribution, working through the United Nations General Assembly and UNESCO toward ever more ambitious goals. The demand of the Nairobi UNESCO meeting in 1976 for a "New World Information Order" was as unpopular among the affected interests in the United States as had been the 1972 action on direct broadcast by satellite. An unprecedented display of Third World independence over the issue of satellite broadcasting occurred in 1975, when a grouping of equatorial countries (taking note of OPEC's success in forming a united front against the first world) joined together to issue the Bogata declaration. In this document the signatories asserted their sovereignty over the geostationary orbit -- a bit of international legal bravado which gave new life to the effort to decide where airspace sovereignty ends and outer space ("the province of all mankind") begins. Still another complication for the continuing effort of the United States to fend off the smaller nations' claims to such rights as "prior consent", "development aid", a "new world information order" etc., was the decision in 1978 to enlarge the membership of COPUOS from 37 to 47, a move which, given the make-up of the UN could only increase the vote of the smaller countries.

Needless to add that the decade was also marked by steady gains in space communications technology, in part because of its critical importance to the growing surveillance and warmaking machinery of the U.S. and NATO and in part as well to the burgeoning communications demands of the rapidly expanding world capitalist market. A first DBS application, using community receivers, had been demonstrated by U.S. NASA in India in 1975. A similar program was initiated in Canada in 1975, designed to reach portions of the distant sub-arctic. In 1976, the International Maritime Satellite organization was set up, with the aim of creating satellites and ground stations as the collective property of all participants. In 1978 the U.S. and the USSR converted their "hot line" from undersea cable to outer space satellite. In that same year NASA launched a DBS satellite under contract with Japan. By 1979 Intelsat could report that it had twelve communications satellites in synchronous orbit, with 203 earth-stations in 97 countries. It was also providing satellite capacity for national domestic services in 15 countries. It should be kept in mind that the bulk of Intelsat's transmissions are business services, for example electronic fund transfers(\$5 trillion in 1983) and telephone calls(one billion in 1983). Television transmissions have formed but a small part of its annual business and of course none up to this point have been "direct broadcast by satellite"(DBS) but are rather transmitted by prior agreement between various national television services. Spokespersons for Intersputnik, the socialist countries' space

communications system, reported ten member countries in 1979, with nine earth-based stations and a number of communication satellites in geostationary orbit above the Atlantic and Indian Oceans, sufficient to "make it possible to ensure communication 105 practically between all countries".

Against this background we turn to the substance of the unfolding controversy over how to control DBS -- a debate that has been carried on in a number of arenas and has engaged the talents of diplomats, negotiators, international lawyers, and social scientists. The Legal Subcommittee of COPUOS and especially its Working Group on DBS has been the major forum, with regular annual meetings and detailed reports to the General Assembly. Law journals, mostly in the U.S., and committees of the American Bar Association have provided a continuing forum for DBS analysis. At the international level, as already mentioned, the annual colloquia of the IISL have explored the issue and made recommendations. They have proved to be a major source of information about the views of lawyers from the Soviet Union and other socialist countries, who between 1973 and 1979 presented 15 106 monographs on various aspects of the DBS controversy.

105. Sean MacBride, et al., Many Voices, One World, Unesco. London: Kogan Page, 1980, pp. 288-290.

106. Another source has been the English language journals published in socialist countries, the Democratic Journalist, (Prague), and International Affairs, and New Times, (both in Moscow).

As we have seen it was Soviet initiative which brought about the General Assembly vote on the question of DBS, and in the subsequent years of negotiation the Soviet draft convention of 1972, as amended by its originators, formed the basis of the ongoing discussion. In sum what was proposed was a binding treaty permitting DBS only with the consent of the receiving nation; further the proposed treaty called for the prohibition of content which would publicize "ideas of war, militarism, national and racial hatred and enmity between people, as well as material which is immoral or instigating in nature or is otherwise aimed at interfering in the domestic affairs or foreign policy of other states".¹⁰⁷

Of particular interest to western participants in the controversy was the Soviet proviso that violations of the treaty¹⁰⁸ would effectively authorize a state to employ

...the means at its disposal to counteract illegal television broadcasting of which it is the object, not only in its own territory but also in outer space and other areas beyond the limits of the national jurisdiction of any state.

In the face of strong criticism, the Soviet Union softened this proposal in 1974 making it clear that the possibility of

107. Draft convention in UN DOC A/8771(1971) Art. V.

108. Ibid, Art. IX(1).

counteracting a satellite signal was to be accomplished by means
"recognized as legal under international law", not by military
retaliation¹⁰⁹ However, it held to the prior consent proviso,
and to the limitations on program content. Sweden and Canada
joined together to offer a different version of a DBS treaty in
1973, retaining the requirement of prior consent, and giving
attention to the term "free flow" of information, a term which
had been ignored by the Soviet Union draft. The Sweden-Canada
version affirmed that direct broadcast by satellite "shall be
conducted on the basis of respect for the principles of
sovereignty of states, non-intervention and equality and in the
interest of promoting the free flow of communications."¹¹⁰

Between the years 1974 to 1979, prodded by a sometimes
impatient General Assembly,¹¹¹ the member states of the COPUOS
committee, adhering to consensus procedures (as they had from the
beginning), came to unanimous agreement on nine principles
affecting DBS. The list is a significant indicator of the extent
to which differing viewpoints have been integrated, even

109. J. Freeman, "Toward the Free Flow of information: Direct TV
Broadcasting via Satellite", Journal of International Law and
Economics, Vol.13, No.2, 1979, pp.343-345.

110. UN DOC A/AC/WG 3/L.4(1973), reprinted in UN DOC A/AC.
105/107. Annex IV (1974).

111. Nandasiri Jasentuliyana and Roy S.K.Lee, eds., Manual on Space
Law. Dobbs Ferry, New York: Oceana Publications, 1979, p.288.
Jasentuliyana is on the professional staff of the COPUOS. The book
provides detailed accounts of the various legal aspects of the
DBS controversy.

including a degree of compromise between the U.S. and the Soviet Union, the central opponents in the negotiating process. However there has been no agreement on three remaining points which are the basic ones: prior consent, limitations on broadcasting content, and possible recourse to state actions aimed at stopping unwanted broadcasts. The nine points are:

1. Purpose and objectives. Among other things, DBS is to be used to strengthen international understanding and cooperation in maintaining peace and security and is to promote dissemination and exchange of knowledge and information.

2. Applicability of international law. Agreement on this point specifies that the Outer Space Treaty, United Nations Charter, and international law all apply to DBS. Proposals to cite other specific sources of international law, such as the ITU convention and the UNESCO Declaration of 1972, have not been agreed to, nor is there agreement on an enumeration of legal instruments relating to friendly relations between nations. (According to Jasentuliyana the United States, Canada and Sweden wanted to specifically cite the ITU Convention and ITU Radio Regulations but the Eastern European countries opposed that, arguing that "they provided only the technical work for the conduct of activities in the field".)

112. Details drawn from Nandasiri Jasentuliyana and Roy S.K. Lee., op.cit., pp.288 ff.

3. Rights and benefits. Agreement exists on the idea that all states have equal rights to utilize DBS and to authorize its use by entities under their jurisdiction.

4. International cooperation. Agreement exists on the desirability of international cooperation, at regional as well as universal international levels.

5. State responsibility. This agreement reiterates the provisions of Art. VI of the Space Treaty, holding states responsible for DBS activities carried out under their jurisdiction. (Jasentuliyana adds that the Eastern European countries have sought unsuccessfully to require states to bear responsibility for all broadcasting activities, not just DBS. This appears to give credence to the U.S. fear that in the future the USSR will seek to expand the scope of the proposed DBS principles to cover shortwave and mediumwave international broadcasting.)

6. Duty and right to consult. This section says an aggrieved state may seek consultation from the broadcasting state concerning "any matter" arising out of DBS penetration. Agreement on this principle is not final but has been made contingent on the still unresolved question of prior consent and content limitations. Thus if prior consent or content limitations would be adopted, agreement on this principle would be withdrawn.

7. Peaceful settlement of disputes. The agreement specifies peaceful mechanisms but does not provide for binding arbitration.

8. Copyright and neighboring rights. This principle suggests that existing international copyright instruments apply to DBS; in connection with the application of copyright requirements to developing countries the agreement proposes such countries receive special consideration (as they already do under most existing instruments concerning protection of intellectual property).

9. Notification to the United Nations. As with other outer space activities, states engaging in international direct television broadcasting by satellite are urged to inform the Secretary General.

While most of the points of agreement are relatively noncontroversial, the acceptance of the applicability of international law seems a victory for the longheld position of the USSR. Additionally, the reiteration of state responsibility (point 5) underlines a position championed by Soviet spokespersons. Further, it is noteworthy that the United States, which began by insisting that no principles of international agreement were needed, subsequently moved to agreement on nine such principles. The lack of agreement on the remaining issues, prior consent, program content restrictions, and possible

recourse to stop unwanted broadcasts, cannot be seen as a substantive victory for the United States although it perhaps represents a tactical advantage in that as long as these issues remain unresolved, technological and practical advances may continue to go forward in the field, which is dominated by the U.S. On the other hand, as we have seen, proponents of prior consent are winning ground in other arenas, specifically in the ITU (regulation 428A), UNESCO (the New World Information Order), and in elaborating the full meaning of the applicable international law (the UN Charter, the Outer Space Treaty, etc.) thus mooting the COPUOS as a determining agency.

CHAPTER V - THE U.S. POSITION IN THE DBS DEBATE

SECTION 1 - "FREE FLOW OF INFORMATION"

One of the central arguments for the U.S. position on which most American jurists appear to agree is that information and its free movement is an objective force which "injures no nation", that in fact an "open marketplace of ideas and information is essential to the well-being of the international community". A second tenet frequently cited is the belief that "our own fundamental law" (i.e. the constitutional protection of free speech) prohibits the U.S. from becoming party to any international agreement which would restrict "the right of free expression". These arguments were set forth in 1973 by F.S. Ruddy, then Deputy General Counsel for the U.S. Information Agency, speaking at the 16th IISL colloquium.¹

1. On that occasion Ruddy also quoted these statements from A. Solzhenitsyn's Nobel Prize acceptance speech: "Mankind has become one, ...surpassing all barriers through international broadcasting and printing"; and "Suppression of information leads to entropy and total destruction....The people know nothing intelligent about the rest of the earth and are prepared to go and trample it down in the holy conviction that they come as liberators."

The present chapter will consider the issue of the so-called "free flow of information" as it has evolved during the controversy. In the next chapter the discussion will focus on the implications of the first amendment.

Both of these arguments have been weighed and elaborated by American legal scholars, encouraged to do so by foundation grants, law school study programs, and the State Department. The latter used its ongoing program of external research to bring together a number of American legal experts and communications sociologists² at an Airlie, Va. conference in February, 1974. A sense of the Department's central concerns is reflected in the four questions posed to the experts in the "Draft Work Statement" prepared for the conference: 1. How well established in principle and in practice internationally is the right to receive and impart information across national boundaries? 2. Does the right to receive information and ideas apply more to certain types of information and ideas than to others -- e.g. is the right of a citizen of any country to receive cosmetic advertising from abroad equivalent to his right to receive debates by the United Nations Security Council? 3. Does the practice of governments which impose controls on the volume of imported information material, such as films and TV programs, violate the principle of

2. Lawyers Abram Chayes, Paul L. Laskin, John Lawrence Hargrove and Monroe E. Price; social scientists Emile McAnany and Ithiel de Sola Pool; and former USIA director, Leonard H. Marks, among others.

"free flow"? 4. What validity is there to the argument of some governments that they must control the foreign media which are assumed to have an intense impact, such as television, more than those with less impact, such as short-wave radio?³

Before proceeding to an examination of current views of "free flow" as a rationale for the official U.S. opposition to prior consent it may be useful to attempt a brief look at the history of the term and of the conditions it presupposes. It first began to appear in international debates during the opening stages of the cold war, following Churchill's iron curtain speech in Missouri. Thereafter it became a key slogan in the human rights debates in the United Nations and UNESCO, debates which focused mainly on the fundamental economic and political differences between the USSR and the U.S. and which culminated in 1950 in such actions as the General Assembly resolution on Freedom of Information and the creation of a special Freedom of Information Committee of UNESCO. Among the interests participating in these debates were spokespersons for the publishing and broadcasting industries in the U.S. seeking to affirm their longstanding access to and distribution of news through their world news agencies and networks. "Free flow" was also a term widely used in the promotion of the Radio Free Europe

3. Aspen Institute Program on Communications and Society, Control of the Direct Broadcast Satellite: Values in Conflict, Palo Alto, 1974, pp.83-84.

campaign. In the view of the USSR and other socialist countries the term "free flow" came to be associated with the establishment of Radio Free Europe and Radio Liberty. They viewed the effort as a part of the cold war "in which, in contrast to hot war, it is not the cannons that speak but subversive radio stations, newspapers, magazines and other mass information and propaganda media".⁴ Prof.Y.N.Zasursky, writing in Prague in 1974, asserted that the freedom of the "free flow" was in fact not individual freedom but freedom for the media monopolies or state broadcasting agencies of the western countries. The information part of the slogan he asserted, was in fact misinformation, pointing to Lord Beaverbrook's statement that he published his newspapers for propaganda purposes. Zasursky proposed that "free flow"⁵ be renamed "electronic imperialism".

Being aware of the controversy surrounding the evolution of "free flow" we can turn again to consideration of its importance and value to the theorists who were called upon to advise the

4. Prof.Y. N. Zasursky,"History of the Concept 'Free Flow'"in The Democratic Journalist,No.3,1974,p.8.See also Herbert I. Schiller,"The Diplomacy of Cultural Domination and the Free Flow of Information",chapter 2 of Communication and Cultural Domination.New York:Pantheon Books,1976;also"Freedom from 'Free Flow'",Journal of Communication,Vol.24,No.1,1974,pp.110-117; also"'Free Flow of Information' Aids U.S. Capitalism",in Our Right to Know,New York:Fund for Open Information and Accountability,Inc.,Spring,1985.

5. Ibid. As examples of the practice of "free flow", he pointed to Czechoslovakia in 1968 and to Chile in 1970-1973 where the "international information monopolies" helped conduct a systematic information war against the legal government.

State Department at its conference on "The Free Exchange of Information and Ideas and the Integrity of National Cultures".

In his contribution, John L. Hargrove, then acting head of the American Society of International Law, offered a sophisticated rationale for rejecting the established principle that the state is an irreducible entity in international law. Like Zasursky, Hargrove borrowed his imagery from the politics of world commerce. To the former, free flow of information was a disguise for "electronic imperialism", to the latter the proposed restraint of information flow was a form of "cultural protectionism". Hargrove points out that the idea of negotiating an international agreement to legalize such "cultural protectionism" was based on acceptance by the international community of the inviolability of each existing state. That, he argued, was not a sufficient cause for such protection, especially if what was being protected was a "ruling elite"⁶ or "if there is reason to doubt the representative character of the national governmental apparatus"⁷. The object of "the evolving international community" should rather be "to develop its own capacity to hold local authorities accountable as fiduciaries for their own populations"⁸. Recognizing the impracticality of this

6. Aspen Institute Program on Communications and Society, op.cit., p.89.

7. Ibid, p.94.

8. Ibid, p.89.

prescription, Hargrove nonetheless recommended against any international treaty or agreement to limit communication or other cultural interchange, since such "cultural protectionism" would have the effect of "abetting the unreasonable infringement of legitimate community interests by national authorities."⁹

This statement against prior consent is significant on two counts. First it makes explicit what is often alleged to be one of the goals of international shortwave broadcasting: the undermining of the established authority of a state when that authority is deemed by the broadcasting state to be unrepresentative. If Radio Free Europe's broadcasts are considered by their sender (the United States) to be in the interests of the people of Poland, as against an elite perceived to be ruling Poland, Hargrove's views would legitimize this type of foreign influence. Hargrove did distinguish between what he called cultural exchange and such broadcasts from outside as would threaten "force" (his quotation marks) or would urge others to bring about a state's forcible overthrow. These latter kinds of communication he felt were already prohibited by the United Nations Charter, a significant admission which received no further comment.

At another level the Hargrove argument raises a key question: the validity of the state as reflective of the people

9. Ibid, p.95.

who are its citizens. A thorough examination of the question would take us too far from our topic but it should not be overlooked as a problematic in any discussion of information resources and their control.

Caught as we are in the last quarter of the twentieth century with nation states as the most powerful organizational form we know, we often tend to see them as unchangeable givens. The possibility of higher, more complex and more comprehensive forms of political organization must not be foreclosed although at the same time it must be recognized that the struggles of today, between the holders of power and the powerless, will continue even when larger formations are achieved and in fact will permeate the stages of development needed to reach those higher stages. Hargrove is representative of those who would undermine "statism" by pitting one state against another; other participants in the process might be seen as building on the structures of states to reach new forms of cooperation; still others might here introduce the theories of nineteenth century Marxism and twentieth century Leninism which anticipated the replacement of the capitalist nation states with international organizational forms of communism.

Hargrove's opposition to any international invocation of cultural protectionism/prior consent is a more extreme position than that of most American jurists, who do not generally put into question the paramountcy of state sovereignty. Some have gone

that far, as for example this comment that "the sovereignty of states is not paramount to other rights under international law, including the right of scientific research, the free flow of information, and the use of outer space for peaceful

¹⁰ purposes". Sig Mickelson, a former executive of CBS and president of RFE and RL, has complained about "...the Soviet Union's direct attempt to impose the theory of complete state ¹¹ sovereignty over all forms of communication". But most professors and practitioners of international law have not aligned themselves with the official U.S. "free flow" position and several have suggested that it was something less than legally acceptable. At the very start of the controversy in 1969, Paul L. Laskin had authored a Twentieth Century Fund report proposing that states which might broadcast via satellite "adopt the simple principle that they will not use satellites for the deliberate broadcasting of programs to any country without the recipient's consent". ¹² (In 1970 the Twentieth Century Fund published a second report on the topic, with Gordon Weil as a replacement for Paul Laskin. The newer report revealed a change of heart. Weil wrote(p.19):"A requirement of consent is

10. Edward R. Finch, Jr. and Amanda L. Moore, "Outer Space and the Global Community", The International Lawyer, No. 8, Oct. 1974, p. 762.

11. Quoted in Herbert Schiller and Kaarle Nordenstreng, eds., National Sovereignty and International Communications, op. cit. p. 234.

12. DBS, Communication by Satellite. New York: Twentieth Century Fund, 1969, p. 14

unobjectionable if it means no more than the right of a country to participate without veto in negotiations -- in the ITU or elsewhere -- concerning systems that will illuminate its territory." The phrase "without veto" indicates the new perspective.)

Paul Laskin and Abram Chayes were among the experts consulted by the State Department at its Airlie conference in 1974 and they were also leading participants in a conference of experts from many countries that was held that same year at the Rockefeller Foundation's conference villa in Bellagio, Italy. Their analysis of the international law aspects of DBS have been published in several fora¹³ and provide an extended view of the history and complexity of the U.S. position. By 1974, as already noted, the United States officially appeared to be no longer opposing the idea of a declaration of United Nations principles regarding television DBS. It had in fact submitted its own draft to the COPUOS which stated that DTBS (the "t" stands for television, the first time this new acronym had appeared) "should be carried out in a manner compatible with the maintenance of international peace and security with a view to enhancing cooperation, mutual understanding, and friendly

13. Among others, Direct Broadcasting from Satellite: Policies and Problems, American Society of International Law, Washington, D.C., 1975; "International Satellite Controversy", Society, Sept/Oct 1975, pp.30-40; "Policy Problems in Direct Broadcasting for Satellites", Stanford Journal of International Studies. Vol.V, June, 1970.

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relations among all states and peoples". The draft provided that international DTBS should encourage "the free and open exchange of information and ideas" but precluded any kind of prior consent. Laskin and Chayes have developed their argument by citing the several international declarations in support of the free flow of information and ideas, including the United Nations Charter, which provides that member states are obliged to promote "universal respect for and observance of human rights and fundamental freedoms", and the 1948 Universal Declaration of Human Rights, which spells out some of these rights. Art. 19 of the Universal Declaration provides that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and import information and ideas through any media and regardless of frontiers". Not a treaty, the Declaration has nevertheless over the years gained wide respect as an authoritative elaboration of United Nations goals and has been reaffirmed in a number of international human rights instruments as will be detailed later in the text. Laskin and Chayes assert that "any regulatory scheme for international satellite broadcasting is to facilitate and enlarge the flow of information and ideas, not to stifle it"; it must also take into account "the

14. "United States Proposes Voluntary Principles on Direct Broadcasting by Satellite" U.S. Department of State Bulletin, Vol. LXX, No. 1817, Ap 22, 1974, p. 17.

value of cultural diversity for the world at large".¹⁵ At the same time they cite the principle of state sovereignty: "that every nation attaches [importance] to the right to determine for itself, at least in a general way, the scope and character of the television services available to its people".¹⁶

Measuring the U.S. position against these three principles they concluded that "it fails to give proper weight to the interest in diversity and the desire of States to determine for themselves the character of their national television services". They added:¹⁷

...one may ask, for example, what the reaction of the United States would be if the viability of the structure of American television were threatened by foreign satellite broadcasts. The United States would undoubtedly assert the right to take protective action to ensure the continuance of a domestic television service adequate by its own standard. From the point of view of countries with little need or desire to engage in international direct broadcasting (many of them undeniably devoted to the principle of freedom of information), the consequences of the minimalist position put forward by the United States look in practice very much like foreign intrusion and interference.

Laskin and Chayes found merit in the draft proposed by Canada and Sweden calling for prior consent and granting a recipient country the right to participate in activities

15. Laskin and Chayes, Direct Broadcasting from Satellite: Policies and Problems, Washington, D.C., American Society of International Law, 1975, p.25.

16. Ibid, p.23.

17. Ibid, p.26.

involving radiation of its territory, a provision which they feel would adequately protect national autonomy in television matters. But can prior consent be reconciled with "the principle of free flow of information and ideas?" They pointed to the longstanding de facto power of a state to control any information coming into it from foreign sources: mails, telegraph, print media, recordings, tapes, television signals received via centrally controlled receivers. They included even shortwave radio signals, which have long been combatted by jamming: "While jamming is not an internationally approved practice, especially by nations with a strong tradition of free speech, it has never been considered a violation of an international legal obligation."¹⁸

Concluding their 1975 commentary on the issue Laskin and Chayes proposed some refinements to the prior consent draft of¹⁹
Canada and Sweden:

First, a right of consent should be exercised only in accordance with the principles and norms that have been developed, and are still being developed, by the international community, including especially the principle of free flow of information. Second, satellite broadcasting should be governed by broad consensual arrangements negotiated between transmitting

18. Ibid, p.28. They added that in the Radio Luxemburg case in the thirties, the United Kingdom had asserted "and partially vindicated" the right under international law to jam unwanted broadcasts.

19. Ibid, p.33.

and receiving States which set out the terms and conditions of the enterprise.

Another professor of law who spoke at the State Department seminar, Thomas Buergenthal, attached importance to the fact that the Universal Declaration of Human Rights, while it protects the right to receive and impart information, also provides that this protection may be legitimately restricted for reasons of "public order" and "public welfare"(Art. 29(2) of the Universal Declaration). Looking at the ongoing prior consent debate between states, Buergenthal felt that "few if any states" were challenging "the principle of freedom of information as such" but rather were seeking prior consent "as a way to ensure the enforcement of those limitations on freedom of information that a state deemed necessary to protect or promote its public policy, be it in the political, economic, social or cultural sphere".²⁰

Buergenthal has been one of the few who have commented on the use of DBS for advertising. He felt states might justly ban unwanted advertisements delivered by DBS, since "under international law each state is free, in the absence of specific international agreements to the contrary, to bar aliens from engaging in commercial activities within its territory." He reasoned that "advertising whose sole purpose is to propose a commercial transaction could be equated to commercial activities in general" and would thus be "subject to the exclusive regulatory

20. Aspen Institute, Control of Direct Broadcast Satellites, op.cit., pp.80-81.

authority of each individual state". Buerghenthal suggested that other states fear that "the U.S. will ride roughshod over the public policy of all other states", a fear he felt was fed by U.S. spokespersons who sometimes expressed the view that "the principle of freedom of information is absolute or close to it, which of course it is not, even under our own laws".²² States which were seeking protection from unwanted signals might, he felt, legitimately insist on "more balanced programs", "equal time" or the "right to reply", and time limitations, but he nevertheless concluded that "an absolute right of prior consent would negate the very existence of the international right to receive and impart information across national boundaries".²³

In 1977 the Brookings Institution published a study focused on the problem of "conflict resolution" in three areas: outer space, oceans, and weather -- entities which "elude the kinds of local and national regulations applied to commonly used resources on land".²⁴ (The familiar Lasswell formula reappears: "Who gets what, when, and how in the nonland areas can affect the security, health, economic welfare

21. Ibid, p.83.

22. Ibid, p.81.

23. Ibid, p.80.

24. Seyom Brown, Nina W. Cornell, Larry L. Fabian and Edith Brown Riess, Regimes for the Ocean, Outer Space and Weather. Washington, D.C.: The Brookings Institution, 1978.

and power of ever larger portions of the earth's population".²⁵
After reviewing the DBS controversy, the authors reject a "prior consent regime" which would be "prior censorship beyond that practiced by the United States government for domestic programs" and "would probably contravene the First Amendment to the Constitution".²⁶ Absent such a regime they felt "the United States would probably continue to broadcast internationally, and other countries would have to resort to jamming to prevent unwanted broadcasts".²⁷ They proposed as an "alternative" what they called an "Agreement Regime": "A general international convention" that would "stipulate that broadcasting via satellite into foreign countries should be with the agreement of the involved countries".²⁸ Untroubled by the apparent contradiction in their position, they opined: "We are convinced that uncompromising U.S. insistence on an absolutely open regime for satellite broadcasting would work contrary to present arrangements and would impede extension of any eventual capabilities for direct broadcasting".²⁹ The authors commented on a policy difference between "communications professionals in government international broadcasting circles" and persons

25. Ibid,p.2.

26. Ibid,p.160.

27. Ibid,p.161.

28. Ibid,p.160.

29. Ibid,p.161.

working within the USIA. They felt the professionals seemed to acknowledge the marginality of "intrusive [satellite] broadcasting" but not so the USIA, which "for many years...has, in its Congressional testimony, left open the door to satellite
30 broadcasting". The authors alluded to the question of advertising by DBS, thinking it an unlikely development for reasons of cost, limited audiences, and the ready availability of
31 other advertising methods.

A most useful monograph by Leo Gross, professor emeritus of international law at the Fletcher School of Law, provides a summary of the conflict between state sovereignty versus "free
32 flow". Gross cites the Lotus case, decided in 1927 by the Permanent Court of International Justice (predecessor of the present World Court), in which the Court said that international law emanates from the freely-taken actions of states, in the form of conventions or usage, and that "restrictions upon the
33 independence of States cannot therefore be presumed."

But if international law is not to be seen as a restriction on state sovereignty, neither is it to be seen as incompatible

30. Ibid,p.161.

31. Ibid,p.162.

32. Leo Gross, "Some International Law Aspects of the Freedom of Information and the Right to Communicate", pp.195-211 in Schiller and Nordenstreng,op.cit.

33. Ibid,p.197.

with state sovereignty. Gross warned against "the mistaken notion that the limitations that international law inevitably imposes upon States are somehow contrary to, or incompatible with, their sovereignty". On the contrary, "compliance with the law is inseparable from the very notion of international law".³⁴

Another basic principle which Gross deemed relevant was that States "may not invoke provisions of their internal law as justification for their failure to perform their obligations under treaties or under customary international law".³⁵ He also called attention to the principle known as domestic jurisdiction, reinforced by the principle of non-intervention, which provides that in the absence of applicable international law, "states are free to exercise their sovereignty within their territory".

Gross gave close attention to the argument that United Nations resolutions such as the all-important Universal Declaration of Human Rights are "international law" and thus binding on the UN member states. He concluded that they are "merely statements of objectives and purposes" and do not become legally binding unless or until states convert them into treaty form. To those who have argued that the Universal Declaration of Human Rights has become customary international law he pointed

34. Ibid, p.199.

35. Ibid. In support of this principle Gross cited the advisory opinion of the Permanent Court of International Justice in the Greco-Bulgarian "Communities" case.

out the fundamental requirements for a measure to achieve such acceptance: it must be observed, and the observing states must believe that it is obligatory so to do. ³⁶ He noted that United Nations members, after two decades of work, had transformed the Universal Declaration of Human Rights into international law in the form of two documents known as the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, both of which were ratified by enough states to go into force during 1976. The former contains references to the rights of individuals with regard to cultural and scientific pursuits and the latter deals with freedom of information as follows:

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

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; and (b) for the protection of national security or of public order ...or of public health or morals.

36. Ibid, p.196 and 203.

37. Ibid, p.205, quoted from the UN document.

Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Both covenants have been signed by the USSR; both covenants were signed by President Carter on Oct. 5, 1977 but have not been ratified by the Senate. Gross observed that the second covenant provides a way for the United States to make the right to freedom of information part of a legally binding treaty although it is "not clear how far, if at all, it confers rights upon the media ³⁸ themselves" ³⁹ (his emphasis). He concludes:

If the United States takes the freedom of information and other rights seriously and desires to play a significant role in their application, it must ratify the Covenant...

One further aspect of the free flow versus prior consent argument should be noted. It has to do with the uncertainty surrounding the use of DBS for shortwave radio transmissions. Several authorities have brought out this question, suggesting that any restrictions which might be adopted by treaty to control unwanted television signals via satellite might spill over into other areas of telecommunication, whether by satellite or not.

38. Ibid, p.205.

39. Ibid, p.206.

One American expert suggested such restrictions might "impede or inhibit the free flow of information by other media where legal, and thereby reduce international understanding and cooperation between the peoples of the world".⁴⁰ Another asked "What are the implications of a consent principle for other communications media....? Do we really want to open up the use of such a principle as a precedent that could be invoked to stem the free flow of information and ideas?"⁴¹ A German jurist expressing opposition to "rigid...regulations...as proposed by the Soviet Union", also raised the fear that if prior consent were to become operative for television via satellite, it might spread out to cover other media: "We fear...that one can very easily transform such guidelines to terrestrial TV, to shortwave, longwave, mediumwave radio and all kinds of communications."⁴² Two Canadian legal authorities speculated on this matter in 1979:⁴³

If, as it now seems clear, DBS will not be used

40. James J. Gehrig, "Broadcasting Satellites -- Prospects and Problems", Journal of Space Law, Vol.3, No.1/2, 1975, p.38.

41. Leo T. Stull, cited in "Soviet Space Programs, 1971-1975", staff report prepared for U.S. Senate Committee on Aeronautical and Space Sciences, Aug.30, 1976, Vol.II, p.196. Washington, D.C.:USGPO.

42. Dr.Christian Patermann, "Applicable Law in Cases of Tort Damages Caused by DBS", Journal of Space Law, Vol.3, No.1/2, p.110.

43. Dr.John H. Chapman and Gabriel I. Warren, "Direct Broadcast Satellites: the ITU, UN and the Real World", in N.M.Matte, ed., Annals of Air and Space Law. Distributed by I.C.A.S.L., Toronto: McGill University, The Carswell Co.Ltd., 1979, p.430.

for transmitting programs in the same unregulated way as international shortwave broadcasting in the High Frequency(HF) band why does the USA continue to oppose any UN principle embodying the right of the receiving state to "agree"? One must conclude that the USA fears that any such principle would be an undesirable precedent that could be applied increasingly to other means of communication or dissemination of information.

In summary, what American diplomats and sociologists of communication have called "free flow" or "freedom of information" has from the beginning been a central element of the government's official defense against any form of prior consent. It is regarded as a formal "human right", independent of a social or political context, and is frequently proclaimed in absolutist, a priori terms, despite the fact of longstanding and well-recognized internal limits on information collection and distribution. It is held to on ideological grounds, and in part because of a practical fear that, if adopted, prior consent might be extended to apply not only to television signals but also to the more traditional forms of mass communication across national borders and possibly even to data flows. However when the "free flow" argument was subjected to rigorous scrutiny by legal scholars, mainly in the U.S., it did not win their endorsement. It was seen to be in conflict with the principle of state sovereignty, with internal practice in the United States, and possibly with international law and the principles of the United Nations.

SECTION 2 -- THE FIRST AMENDMENT

If American authorities in international law were unwilling to defend the concept of "free flow" as officially propounded by their government, they were even less able to give credibility to the argument that an international "prior consent" agreement would countervene the First Amendment of the U.S. constitution. This position of the United States was expressed in 1973 by a representative of the State Department: "For reasons of our own fundamental law we are without power to agree to any instrument⁴⁴ which barter away the right of free expression".

Insistence on the American tradition of free speech was a major theme of Harry Olsson, who was general attorney for CBS at the time that he participated (along with top level representatives of NBC and ABC) at the State Department's Airlie Conference in 1974. In that same year he spoke at a forum on the direct broadcast satellite sponsored by Columbia University School of Journalism. There he was insistent on the principle of no restrictions on broadcasting across international borders -- whether on news, entertainment, or commercial advertising -- and felt that any agreement with other states on "mutual cooperation"

44. F.S.Ruddy, op.cit., IISL Colloquium, 1973.

over such programs would mean "compromising our basic principles". Olsson argued that "if we abandon the principle of free speech for the sake of foreigners, are we not necessarily going to lose the principle...in the domestic area as well?"⁴⁵ He called particular attention to the Soviet proposal that "advertising and other commercial material may be carried out only on the basis of specific agreements" between the states concerned, an assertion which he described as "a direct attack on our system of broadcasting. It singles us out for discrimination among the types of broadcasting systems in the world".⁴⁶ Later⁴⁷ in the discussion he said:

What we are talking about here is the power of governments to step between those who broadcast and the people who want to receive the broadcast -- the power of governments which want to keep information or even entertainment from these people. They want to make it impossible for people to make the choice as to whether they will listen or not.

Olsson's statement echoed the position taken by Frank Stanton who as vice president of CBS and an official advisor to the USIA was reported as wishing to expose the issue to the public "when he saw -- correctly -- that the State Department

45. "Report on symposium: The Control of Program Content in International Telecommunications: a Discussion of General Principles", Columbia Journal of Transnational Law, Vol. 13, 1974, p. 52.

46. Ibid, p. 53.

47. Ibid, p. 57.

was trying to avoid a head-on confrontation in the diplomatic
arena".⁴⁸ Stanton had argued earlier that "the fundamental
principle of free speech is at stake" and "the United States must
do all within its power to block the path to international
censorship".⁴⁹ In a speech on Oct. 4, 1974, Stanton made the
same point: "I do not see how our government, given our
constitution, can possibly enter into any agreement in which the
rights of Americans to speak to whomever they please are bartered
away."⁵⁰

In hearings before a Congressional subcommittee in 1976, Sen
George McGovern⁵¹ rejected prior consent as "internationally
approved censorship". John E. Reinhardt, then director of USIA,
said in the same hearings:⁵² "As we believe that free speech is
democracy's chief weapon against tyranny, so do the leaders of
the totalitarian states believe that control of free speech is a

48. Brown, Cornell, et. al., Regimes for the Ocean, Outer Space and Weather, op. cit. p.156-157.

49. "Will They Stop Our Satellites?", New York Times, Oct. 22, 1972, as quoted in Brown, Cornell, op. cit., p.156.

50. Cited in J. Freeman, "Toward the Free Flow of information: Direct TV Broadcasting via Satellite", Journal of International Law and Economics. National Law Center, George Washington University. Vol. 13, No. 2, 1979, p. 352, footnote no. 148.

51. "International Communications and Information", Hearings before the Subcommittee on International Operations of the Committee on Foreign Relations, U.S. Senate, 95th Congress, 1st session, June 8-10, 1976. USGPO, 1977, p. 191.

52. Ibid, p. 219.

vital weapon in preserving their structure".

A full examination of the alleged primacy of the First Amendment in the DBS controversy was undertaken in 1976 by Monroe Price, professor of law at UCLA. ⁵³ Abram Chayes had confronted the issue earlier at the Columbia University forum on DBS in which he participated in 1974, along with Harry Olsson. To the latter's comments about how prohibition of commercials was an infringement of free speech, Chayes had responded by noting that existing FCC regulations already had established limits on commercials which were designed for broadcast to foreign countries and had also prohibited the Public Broadcasting System in the United States from carrying commercials, "without any involvement of the principle of freedom of information or the ⁵⁴ First Amendment" ; in fact he pointed to "a whole series of ⁵⁵ defenses against speech being imposed on unwilling listeners" After an exhaustive analysis of matter, Monroe Price came to similar conclusions, citing compelling precedents which erode the U.S. government's claims to First Amendment imperatives, such as

53. Monroe E. Price, "First Amendment and Television Broadcasting by Satellite", UCLA Law Review, No.23, 1976, pp.879-903.

54. Columbia Journal of Transnational Law, op.cit., p.54.

55. Ibid, p.57. Chayes cited the bullhorn, loudspeaker and soliciting cases, including *Lovell v. City of Griffin*, 303 U.S.444(1938) and *Cantwell v. Conn.* 310 U.S. 296(1940), adding: "In these cases the community is, under our First at its extreme, authorized to regulate the power of someone to impose speech on unwilling listeners"(p.57).

the regulations dealing with international mail, to which the U.S. has agreed through the Universal Postal Union, of which it is a member state. These postal regulations prohibit the U.S. Postal Service from accepting for mailing certain kinds of material including mail which is prohibited in the receiving country.⁵⁶ Quoting from the U.S. Postal Service Manual, Price itemized some of the prohibitions which have been set by other countries and which must be observed by a country sending mail into those countries: Argentina prohibited "communist propaganda"; Australia prohibits matter which unduly emphasizes "crime, horror or sex"; the USSR prohibited toys and games "of a militaristic nature"; several countries restricted the entry of "exposed motion picture film". That this arrangement goes unchallenged is evidence "that the U.S. can constitutionally be party to an international arrangement for the exchange of information where one party-state reserves the right to censor".⁵⁷

Another important precedent which Price identified was the established licensing and regulatory authority of the FCC which has been used over the years to regulate radio and television, including control of "unrestricted competition" (from cable television) and in many other ways. Price pointed to Supreme

56. Ibid, p.891.

57. Ibid.

Court decisions upholding the FCC's extensive jurisdiction and citing language from the original legislation of 1934 which provided that the Act should "apply to all interstate and foreign communication by wire or radio...which originates and/or is received within the United States..." In speculation about the FCC's relation to any future "prior consent" treaty he expressed the belief that it would probably see itself as the proper agency to assert its jurisdiction over signals from direct broadcast signals unless specifically barred by Congress or treaty
58
language.

What about obligations to receiving states? Could the FCC assume functions equivalent to those of the Postal Service and screen outgoing programs of DBS to enforce "consent standards of a receiving state?" If the FCC had such extensive jurisdiction, how might it approach those consent requirements without infringing on first amendment rights? Price skirted this problem and proposed instead that enforcement of any such restrictions be left to recipient nations (leaving open the question of how this might be accomplished if a sending country refused to comply). Thus no existing free speech rights in the U.S. would be restrained by a U.S. control agency, beyond the limitations already operative, i.e. fairness doctrine, legislation requiring

58. Ibid, p.893.

59. Ibid, p.896.

that "news be objective", etc. Significantly, Price did not mention the accumulation of precedents set by U.S. State Department control over scientific and cultural exchanges: for example control of visas to keep out peace activists as was done at the time of the June 12, 1982 disarmament march, or to exclude dissenting views as has been accomplished in the case of invited foreign scholars, or passport controls to keep tourists from traveling to such countries as the President may designate, and current efforts to achieve "voluntary" self-censorship on the part of scientists in the U.S. at scheduled international science conferences. Also ignored by legal scholars, in their studies of the first amendment and DBS, is the paradox in the position of the U.S. which arises out of its insistence on the one hand on free flow's paramountcy over the exercise of state sovereignty by other states, and on the other hand its insistence on the paramountcy of the state sovereignty of its own state over the exercise of prior consent by other states.

Throughout the long debate over prior consent for on DBS has run the sub-theme of restrictions on program content by

prohibiting DBS from publicizing "ideas of war, militarism, national and racial hatred and enmity between peoples, which is aimed at interfering in the domestic affairs of other states or which undermines the foundations of the local civilization,

60. Quoted in Jasentuliyana and Lee, op.cit., pp.293-294, from the Outer Space Committee Report, Report of the Committee on the Peaceful Uses of Outer Space, GOAR 32nd session, Supplement No.20(A/32/20).

culture, way of life, traditions or language". This language is taken from the original draft proposed in 1972 by the Soviet Union, although in the 1979 negotiating session the USSR was described as willing to give up any specification as to program content if the key "prior consent" provisions remained,⁶¹ a position concurred in by Sweden and Canada. It is possible that the Soviet Union felt that existing content restrictions provided sufficient protection, e.g. in the Universal Declaration of Human Rights, which prohibits "propaganda for war" and "all advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence", a prohibition which is also embodied in the International Covenant on Civil and Political Rights, signed by the Soviet Union though not by the United States.

U.S. objections to any such content restrictions have been based on first amendment and free speech concepts, a position which Price examined carefully. He found precedent for content control in the FCC regulation which allows for licensing of international broadcasting only if the service provided "will reflect the culture of this country and....will promote international goodwill, understanding and cooperation".⁶² In

61. Chapman, op.cit., p.427.

62. Price, op.cit., p.897. Price is quoting from 47 C.F.R. Paragraph 73.788(a)1973.

addition he called attention to the de facto control over
broadcasting to areas outside this country which is exercised by
the U.S. government "by virtue of the Voice of America's virtual
monopoly of frequency hours".⁶³ As further evidence of how FCC
regulations set limits on content Price cited a) the FCC authority
to prescribe what kinds of service are to be offered by the
various classes of licensees, b) the FCC prohibition of business
messages on amateur radio stations (or political messages,
although Price did not mention that), and c) the FCC authority
exercised in the 1930's to "deny a license to a facility in the
United States whose purpose was to transmit material to....
Mexican station for retransmission into the United States".⁶⁴

Price also alluded to the long established FCC regulations
which deny licensure to "any corporation of which any officer or
director is an alien or of which more than one-fifth of the
capital stock is owned of record or voted by aliens or their
representatives or by a foreign government....or by any
corporation organized under the laws of a foreign country".⁶⁵
Price argued that such a limitation clearly resulted in a

63. Ibid. It will be recalled that ITU regulations allot segments
for short-wave broadcasting to each country to assign internally
as it wishes. In the U.S. the allotment is assigned mainly,
about 90 percent, to the VOA, which by law has been excluded from
the jurisdiction of the FCC.

64. Ibid, p.898.

65. Ibid, p.899, quoting from 44 U.S.C. Para.310(a)(4)(1970).

diminution of the diversity of information to be heard on radio and television in the U.S. This provision is presumed to be constitutional on the grounds of national security (though it has not been tested) and it may be seen as setting an important precedent for empowering the U.S. government to regulate direct broadcast messages "to protect national security".⁶⁶

As for limiting specific areas of program content such as racial or religious attacks, violence, obscenity, pornography, use of narcotics, etc., Price cited a number of FCC practices (and industry codes) which set standards that preclude such broadcasts in the U.S.⁶⁷

Price also considered the first amendment in relation to possible governmental interference with incoming broadcasts from other countries and found that "consistent with the first amendment, some classes of foreign broadcasts can be practically prevented from penetrating American borders".⁶⁸ He did not mention the Montreux International Telecommunications Convention of 1965 which authorized members to suspend international telecommunications services or to stop information via telecommunications that is deemed dangerous to the security of a member state or contrary to its laws, public order or decency.

66. Ibid, p.900.

67. Ibid, pp.900-901.

68. Ibid, pp.898-899.

Based on the evidence which he presented Price concluded that the first amendment "is consonant with an international scheme that classifies the spectrum available for direct broadcast by satellite so that only particular categories of programming could be used". Further, the first amendment would not rule out an agreement that each state could protect its own domestic television system from foreign competition. "Nor would the first amendment be inconsistent with international regulation of commercial messages." Some content restrictions would be consistent; others would perhaps not be; the mode of enforcement would be an important determinant.

Other lawyers have interpreted the issue differently. One raised the first amendment issue in an entirely different context, asking whether the treaty-making power is in fact limitable by the Constitution, a controversial and still unresolved question, though most recently answered in the affirmative.

69. Ibid,p.901.

70. J.Freeman,"Toward the Free Flow of Information: Direct TV Broadcasting via Satellite"op.cit.

71. Ibid,p.354. Freeman also asked whether the first amendment can be considered to have "an extraterritorial reach that extends to foreign broadcast or audiences?" citing the 1936 Supreme Court decision U.S. v. Curtiss-Wright Export Corp. 399 U.S.304,318, as relevant.

Neither the constitution nor any law passed in pursuance of it have any force in foreign territory unless in respect of our own citizens....; and operation of the nation in such territory must be governed by treaties, international understandings and compacts and the principles of international law.

The frailty of the constitutionally-based free speech and first amendment defenses as justification for U.S. opposition to international control of DBS has become evident as the DBS negotiations have continued. Whether they are sufficient defense to legitimize the claims on behalf of "free flow of information" depends finally on the very definition of freedom, still a source of contention in this divided world. But while the debate has proceeded other complicating issues have arisen. These include the interpretation of ITU Regulation 428A, the unexpected Third World claims to rights over the geo-stationary orbit, and the uncertainty over whether or not DBS regulations, should they ever be agreed to, would apply to radio broadcasting as well as to television. The next section will take up the U.S. position on these questions.

SECTION 3 -- NEGOTIATIONS IN A CHANGING WORLD

The ITU and Regulation 428A

Of particular importance in the direct broadcast satellite controversy has been the ITU policy known as Regulation No. 428A, enacted in 1971 as a part of the ITU regulatory provisions which were ratified by the United States on July 14, 1972 and entered into force on January 1, 1973. The far-reaching effects of 428A were first amplified by a Czech lawyer, Dr. Jan Busak, in the 16th annual IISL colloquium. To cope with spillover (the problem which would occur when one nation's signal might penetrate and thus interfere with the television service of another nation),
72
Regulation 428A provided:

In devising the characteristics of a space station in the broadcast satellite service, all technical means available shall be used to reduce, to the maximum extent practicable, the radiation of space stations in the broadcasting satellite service over the territory of other countries unless an agreement has been previously reached with such countries.

Busak compared this rule with a longstanding ITU regulation

72. Cited in Jan Busak, "Perspective de la Television et de la Radiodiffusion Directe par Satellite", p.141. IISL Colloquium, Vienna, 1972. In Mortimer D. Schwartz, ed., Commentaries Based on Vols. 1-15 (1957-1972) of the Colloquia on the Law of Outer Space. op.cit.

affecting terrestrial radio, which prohibits stations in one state from using a signal strength greater than the signal strength necessary for a national service of good quality, a rule designed to prevent interference with the signal of the internal service of another state. He believed that the new principle contained in 428A was insufficient protection for countries desiring "prior consent" protection against DBS and argued that additional principles to provide such protection should be adopted by the then 143 member-states of the ITU.

As the DBS negotiations went on, some states began to see 428A as a way out, suggesting it was tantamount to prior consent and should or could be expanded to apply to broadcasting from satellites into home receivers. Chapman and Warren cited the draft compromise on the DBS issue offered in the 1979 COPUOS working session by Sweden and Canada, which provided that any direct television broadcasting by satellite "specifically directed at a foreign state, could be established only when it is not inconsistent with the provisions of the relevant instruments of the International Telecommunication Union", thus seeming to stipulate that if a state moved to set up a supra-national service, it could only proceed in accordance with 428A. Most countries however continued to press for a set of COPUOS United

73. John H. Chapman and Gabriel I. Warren, "Direct Broadcast Satellites: The ITU, UN and the Real World", in N.M.Matte, ed., Annals of Air and Space Law, op.cit., p.426.

Nations principles which would give a clearer statement of the principle of prior consent. It should be emphasized that when the ITU first adopted 428A the only immediately contemplated use of satellite broadcasting was for "community receivers", not for individual receivers. It will be remembered that direct satellite broadcasting may be of two kinds: the kind which is directed to "community receivers", that is, to land-based points of further distribution of the signal, which thus lend themselves to government licensure and regulation, or to receiving sets controlled by individuals in their own dwelling places, less accessible to external controls.

The ITU secretariat worked closely with the COPUOS working group during its long deliberations. In 1977 the then deputy secretary general of ITU Richard E. Butler enumerated ITU actions in addition to 428A which were relevant to the COPUOS negotiations: first, the adoption of the principle of equal rights of ITU member states to access to the frequency bands which have been set aside for space radio communications services; second, the proviso that when a member state registers a frequency assignment with the ITU, it does not thereby gain permanent rights to that frequency; third, the decision to complete the DBS planning for Region One (Asia) and Region Three (Europe and Africa) in 1977, and Region Two (North and South America) in the early eighties; and finally, the adoption of provision 470V which requires DBS satellites to be "fitted with

devices to ensure immediate cessation of their radio emissions by telecommand, whenever such cessation is required" under ITU

⁷⁴ regulations. It is noteworthy that the planning which has been accomplished for Regions One and Three and which entered into ⁷⁵ force on Jan 1, 1979, was made in accordance with 428A.

According to observers, the regional planning in Europe occurred at a surprising rate, with all affected countries agreeing to accept unintentional but unavoidable spillover signals from other countries' space-based broadcasts. Chapman and Warren commented: "It is amazing that it proved possible to agree upon such a plan given the fact that the details of coverage areas and 'spillover' affected the sensitive interests of all countries with

⁷⁶ territorial disputes with other countries". The United States had been against the idea of proceeding with such regional plans, arguing that they might "restrict flexible use of both ⁷⁷ frequencies and orbital slots". (Chapter VII provides an updating on DBS planning for Region 2.)

The United States, a participant at the 1971 conference

74. Richard E. Butler, "World Administrative Radio Conference for Planning Broadcasting Satellite Service", Journal of Space Law, Vol. 5, Nos. 1-2, 1977, pp. 95-96.

75. Ibid, p. 96.

76. Chapman and Warren, op. cit., pp. 421-423. A good description of the complicated plan is found in the Chapman-Warren monograph.

77. Wilson P. Dizard, "The US Position: DBS and Free Flow", Journal of Communications, Spring, 1980, Vol. 30, No. 2, p. 165.

which promulgated 428A and the 1977 conference which reaffirmed and applied it, has maintained throughout that the provision is merely technical and in no way converts "prior consent" into international law. Stephen Doyle, U.S. delegate to the COPUOS working group commented:"The ITU requirements for coordination of frequencies should not be taken to imply agreement to the principle of prior consent to international broadcasting".⁷⁸ The argument became heated in the mid-seventies when other countries notably Canada and Sweden insisted that 428A had the effect of international law with respect to DBS. In opposition, the U.S. representative argued that it was necessary to distinguish between direct television broadcasts by satellite which were especially meant for foreign states and those occurring as a result of unintentional spillover; prior consent (were it ever to be adopted) would apply to the former, while the 428A regulation applied to "technical matters", presumably meaning unintentional spillover.⁷⁹ In later COPUOS committee debate the U.S. representative elaborated this view, saying that 428A, taken together with a number of other ITU regulations affecting space satellite broadcasting, applied only to radio frequency coordination and notification procedures:⁸⁰

78. Kathryn L. Queeney, op.cit., p.152-153.

79. Ibid, p.152.

80. Queeney, op.cit., quoting Stephen Doyle, U.S. delegate to COPUOS.

The prior coordination contemplated and the agreement referred to in paragraph 428A of Article 7 and in Resolution Spa.2-3 relate exclusively to questions of potential radio interference problems and radio frequency coordination. There is no other dimension or aspect of the agreements contemplated in the language or the history of the ITU Radio Regulations.

Nandasiri Jasentuliyana, a close observer of the controversy over the past 15 years, gave a different account of how the WARC 81 1971 ITU conference arrived at the formulation of 428A:

The genuine fear, whether justified or not, of the potential danger of unrestricted satellite broadcasting was responsible for the insistent demand of countries -- mainly the developing countries -- for the revision of Article 7 of Radio Regulations to ensure that before the establishment of a broadcasting satellite service, there should be a previous agreement among countries who may not want such transmissions or whose service may be disturbed by spillover from such transmissions.

Jasentuliyana regarded the adoption of 428A as "a turning 82 point in the policy formulations of ITU".

The United States position, that nothing in ITU regulations can be seen to establish the concept of prior consent, seems to rest on an analogy with the longstanding ITU regulations of terrestrial broadcasting. These regulations, it will be recalled, prohibit a state from broadcasting to another state,

81. Jasentuliyana and Lee, eds. Manual of Space Law, op.cit., p.202.

82. Ibid, p.205.

intentionally or by accident, with a signal that is so strong as to interfere with the internal broadcasting of that other state. If such interference occurs, the offending state is called upon to make adjustments. If 428A is interpreted in the same way it would mean simply that a broadcasting country would have to select a frequency which would not be in use by the internal broadcasting system of the intended receiving country. In developed countries, where internal television broadcasting by satellite is now common, this reading of 428A could serve to limit any unwanted satellite television penetration, at least with the present level of the technology. But in countries where television is hardly existent, this interpretation of 428A would in no way inhibit the broadcasting country, since the receiving countries' channels would be unlikely to be in full use by internal broadcasting, and thus there would be no problem of interference. Another possible motive for the U.S. insistence of differentiating between broadcast signals intended for internal consumption and broadcast signals beamed to selected foreign states is to establish a framework for continued conciliation with Western European countries' interests and for continued confrontation with countries of the Eastern bloc. In any case,

up to 1981 and in spite of U.S. urging, no ITU allocations had yet been made for direct broadcasting across national borders, as

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was reported to the U.S. Congress:

There are no frequency bands available in the radio spectrum for international broadcasting by satellites. Attempts to gain international support for such bands in the high frequency, ultra high frequency, and microwave portions of the spectrum for sound broadcasting failed at both the 1977 and 1979 WARC conferences of the ITU, although the United States was in support of this.

The fact that the ITU held back in authorizing allocations for DBS in the HF,VHF,UHF and microwave bands -- which are the segments best suited for direct television broadcasting into individual receivers -- suggests that the member states of ITU were exercising an "ITU weapon", withholding legitimation of international DBS until the United States has been forced to agree to a "prior consent" principle.

Often included with the arguments against "prior consent" are enumerations of alternative ways which nations might use to prevent unwanted satellite signals: jamming, for example, or control of the sale of receiving sets, allowing only the sale of sets which are not compatible with outside broadcasting signals,

83. Testimony of George Jacobs, technical adviser to the United States Board for International Broadcasting, at Hearings on International Broadcasting: Direct Broadcast Satellites. Subcommittee of the Committee on Government Operations, House of Representatives, 97th Congress, Oct. 23, 1981. Washington, DC:GPO, 1981, p.22.

or monitoring rooftops to prevent utilization of the fairly visible "dish" receivers which up to now have been necessary for receiving the unauthorized signal. However as we shall see, most of these possible forms of control are giving way to technological advances, making a resolution of the issue of prior consent ever more urgent to its proponents.

Carl Q. Christol, a professor and frequent consultant to the U.S. government, commented on 428A at the IISL colloquium in 1978 giving what may be presumed to be a restatement of the U.S. State Department position. He emphasized that as a technical regulatory agency the ITU was properly concerned with efficient and equitable use of the two limited natural resources essential for DBS: the geostationary satellite orbit, and the radio frequency spectrum. The proper arena for arguments about "unacceptable ideas and information" had been and should continue to be the COPUOS.⁸⁴ Christol called attention to the important difference in procedure between these two agencies: in the ITU issues are submitted to vote and the majority prevails; in COPUOS, the longstanding practice has been consensus, (a procedure that made it possible for the United States to prevent a resolution of the "prior consent" issue).

Christol reviewed Sweden and Canada's argument that 428A had the effect of giving to "prior consent" the status of

84. IISL Proceedings, 1978, p.48.

international law, and took note of the ITU report in 1977 on how it had implemented 428A in one of its regional plans. He acknowledged that the ITU was in effect providing "an equality⁸⁵ weapon" to those states unwilling to receive broadcasts. However such developments did not resolve the problem, he argued, because of the ITU's narrow concern with technical issues and because it lacked "the power to make and enforce decisions relating to national conduct". Christol proposed that a more relevant guarantee was to be found in the Outer Space Treaty's provision that space is "free for use by all states without discrimination of any kind" thus allowing access to radio frequencies in accordance with "relevant prescriptions of international law", which in Christol's view did not include 428A of the ITU, useful as it has been. With this convoluted argument Christol seemed to be suggesting that the Outer Space Treaty protects the United States from any discrimination against its free flow approach.

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Wilson P. Dizard updated the U.S. position on DBS in 1980. As a one-time member of the State Department his views are significant indicators of official policy. In sum, the arguments he gives against "prior consent" are a) it would set "an

85. Christol is citing J. d'Arcy's use of the term in "Direct Broadcast Satellites and Freedom of Information" in E. McWhinney, ed., The International Law of Communications, Dobbs Ferry, NY: Oceana Publications, Inc., p.168.

86. Dizard, op.cit.

unfortunate precedent not only for satellites but also in the wider field of world information flow"; b) there is insufficient experience with broadcasting by satellites[to justify such action]; c) it could inhibit the advancement and testing of the technology; d) "existing ITU regulations provide sufficient safeguards against unauthorized broadcast satellite transmissions" and in fact the ITU technical regulations have "overtaken the need for political principles"; e) it would undermine "international free flow of information and the free exchange of ideas"; and f) it would be unworkable in practice since "one incompatible nation could withhold consent thus⁸⁷ denying broadcasting to a whole region".

This examination of the problem of interpreting ITU regulation 428A has provided an opportunity to observe the lines of argument and motivations of the United States spokespersons as they continued their efforts to cope with the DBS controversy. Other difficulties have arisen, including some unexpected claims to the geostationary orbit, the perceived danger of creeping guidelines which might, once in place, be enlarged to cover more than DBS, and a little-noticed procedural custom which has helped legitimate the long delay, as will be described below.

87. Ibid, pp.163-166.

The Geostationary Orbit

During the mid-seventies there arose a curious complication which for a time seemed to overshadow the ongoing argument over "prior consent" and even to unite the United States and the Soviet Union in opposition to the special demands of a group of Third World equatorial countries. The issue had to do with the geo-stationary orbit, an important track in space which is the most effective location for direct broadcasting by satellite. The geostationary orbit lies some 22,300 miles (38,500 kilometers) above the equator. Satellites launched into this orbit and traveling at a speed equal to the revolving of the earth appear to remain in a stationary position over the earth. Theoretically, three such satellites set equidistantly in the geostationary orbit over the earth's continents would have the capability of broadcasting instantaneously to most of the world's population. The first satellite to be placed in this orbit was NASA's Syncom 2, in 1963⁸⁸ and since that time the number has multiplied rapidly. By July, 1977 the total was 100. Some experts have estimated that no more than 180 (each separated by two degrees) can be placed in the geostationary orbit. Others have predicted that advances in technology will make this limitation irrelevant, largely because satellite capacities will be vastly enlarged.

In part because it has been the possessor of the advanced

88. A. Gorbiel, "The Legal Status of the Geostationary Orbit", Journal of Space Law, Vol. 6, No. 2, 1978, p. 171.

technology necessary for space launchings, the United States is the state which has made the most use of the geostationary orbit. It is estimated that 90 percent of the non-military communications satellites now in the GSO are U.S.-launched and controlled.

Even before the Third World challenge in the mid-seventies, a legal question on the matter had been raised by France's suggestion that the use of geostationary orbits could be regarded as an appropriation of outer space, an act prohibited by the⁸⁹ Outer Space Treaty. In response, the United States argued that use of an orbit was legitimate under the Treaty (Art.II) and⁹⁰ could not be considered a national appropriation. The issue had also been touched on by the ITU conference in 1971 when it adopted provisions to ensure that the placement of satellites in the geostationary orbit (using the time-honored first-come first-served rule) was not to be considered permanent but could be adjusted if necessary to ensure equitable access to all⁹¹ states, a stated ITU goal.

The more serious question about the geostationary orbit arose in 1976 when eight equatorial countries led by Columbia and -----

89. Ogunsola O. Ogunbanwe, International Law and Outer Space Activities. The Hague: Martinus Nijhoff, 1975, p.183.

90. Ibid, p.184. Ogunsola cited a number of sources which supported the U.S. position.

91. Ibid, p.185.

including Ecuador, Panama and Brazil, issued the Bogota Declaration, in which they asserted sovereignty over the geostationary orbit.⁹² They argued that the orbit was not part of outer space since its existence depended "exclusively on its relation to gravitational phenomena caused by the Earth", and declared that positioning of satellites over their territories would require their prior authorization. They were motivated in part by the fear that the orbit slots would all be filled by the advanced countries before their own needs could be met. They also regarded the orbit as a "natural resource" that belonged to them, (mindful perhaps of the one-time European claims of ownership of the gold of Eldorado, or the more recent assertions by OPEC countries of control of their oil resources).

The demand of the equatorial countries was not accepted at the 1977 ITU conference and as a result they appended a statement to the final protocol saying they reserved the right to take "whatever step they may deem fair to preserve and secure the observance of their rights".⁹³

The issue raised legal concern and resulted in many restatements of the Outer Space Treaty's authorization of the "free use" of outer space. Not surprisingly the industrialized countries, including the United States and the Soviet Union,

92. Journal of Space Law, Vol. 6, No. 2, 1978, p. 193.

93. Butler, op. cit., p. 97.

closed ranks on the question, agreeing with the ITU point of view that a plan which assigned orbital positions did not constitute an appropriation, as the equatorial countries were asserting. As to whether the geostationary orbit was or was not part of outer space, this raised the long dormant question of defining just where "air space" ends and where "outer space" begins.

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"Juridically pointless" wrote the Polish space jurist Gorbiel. He asserted that the 1967 Treaty's fundamental reason for existing was to provide international legal principles for the exploration and use of outer space, the whole of outer space, and for states to decide which parts of outer space they would treat as outer space was inconsistent "with the essence of international legal order".

The West German jurist D. Goedhuis saw the Bogata argument as "unsubstantiated" and as an endangerment to "the principle of freedom of outer space". While agreeing that there was as yet "no rule of positive international law" delimiting air space and outer space, Goedhuis argued that the consensus of states was
95
against state sovereignty being extended into satellite orbit.

94. Andrzej Gorbiel, Journal of Space Law, op.cit., Vol.6, No.2, p.177.

95. Journal of Space Law, Vol.6, No.1, 1978, pp.40-41.

The General Counsel of NASA joined the discussion, stating that⁹⁶ the Bogata argument had "no scientific and technical basis". He added that the GSO is but one of an infinite possible number of orbits; that its uniqueness is attributable to the total gravitational field of the Earth and the rotation of the whole Earth; that there is no relationship between the GSO and the territory beneath it since entry into GSO can be accomplished by launching the satellite from any place on Earth; and that the height required for GSO (22,300 miles) is far beyond the altitudes of most satellites. For these reasons and because "the legal status of the GSO is well established both by treaty and customary international law," the NASA lawyer opposed not only the Bogata claim but any effort to officially invalidate that⁹⁷ claim.

In rejecting the arguments of the Bogata Declaration, space lawyers recognised the need for broadened and quickened cooperation between the rich nations and the poor. They also set up a committee to once again consider the question of air space⁹⁸ sovereignty.

96. Neil Rosenball, "The United Nations Committee on the Peaceful Uses of Outer Space: Past Accomplishments and Future Challenges", Journal of Space Law, Vol.7, No.2, 1979, p.112.

97. Ibid.

98. Journal of Space Law, Vol.7, No.1, 1979, p.64. The subject was assigned to the IISL Space Law Committee to work in conjunction with the Air Law Committee of the ICAO.

The significance of the GSO debate for DBS is twofold. First, it underlines the conflict between the underdeveloped nations and the wealthy nations, particularly the United States which is pictured by the Third World as aggressively expanding its space communications activities to the neglect of the enormous communications needs of the less advanced, even impoverished nations. In a more subtle way it has worked to the advantage of the United States by lending the legitimacy of "free use of space" to the concept of "free flow of information".

From another standpoint, the convolutions of the legal commentators on the question are new reminders of the ambiguity of international law which seems here to become a weapon in the hands of those who have the power to proceed with their own interpretation of it.

Radio Broadcasting by Satellite versus Television

Broadcasting by Satellite

It is important to recall that the debates over satellite broadcasting have not always been clearly focussed only on television broadcasting. During the sixties the rising wave of concern about the possibility of commercial, cultural, or political invasion from the sky seemed to embrace both radio and television signals. The French delegation to an ITU conference in 1963 had urged, unsuccessfully, that both television and sound broadcasting from a space object be prohibited. However the

nations and peoples of the world had long been accustomed to a huge quantity of international radio broadcasting, primarily by shortwave, regulated only minimally by ITU registration and frequency requirements. It was the perceived persuasive power of the new medium of television as well as the broadcasting satellite's unique capability for relaying line-of-sight microwaves, which brought the issue to a head. Still, the earliest formal considerations of the matter made use of the ITU definition "DBS" -- direct broadcasting by satellite -- and it is that acronym which has continued in use as a shortcut way of alluding to the activity without specifically indicating whether it refers to television only or to both television and radio signals.

During the 1968 UN General Assembly when the problem of DBS was first turned over to COPUOS there was general agreement that the issue under consideration embraced both radio and television signals.⁹⁹ In 1970 when draft principles were first formulated and placed before the working group of COPUOS by the USSR these principles called for regulation of radio and television broadcasts via satellite.¹⁰⁰ In 1972 the USSR placed the issue before the General Assembly more formally, requesting that the Assembly assign to the COPUOS the task of developing principles

99. Queeney, op.cit., p.24.

100. Queeney, op.cit., p.66.

and guidelines for regulating television broadcasting via satellite. Thus in the UN-COPUOS arena of jurisdiction, regulation of radio signals appeared to have been dropped from consideration at that time. However, in the ITU there has never appeared to be a differentiation between the two forms of broadcasting. Both radio and television signals from satellite are telecommunications and both utilize the VHF, UHF and microwave frequencies, and both have been deemed to be subject to ITU jurisdiction, in line with its responsibility to regulate international telecommunications.

Deliberations and final actions in UNESCO in October, 1972 also dealt with both radio and television broadcasting signals. It is fairly evident that the U.S. opposition throughout the long DBS debate has been based on the view that none of the discussions were to be construed as in any way applicable to radio broadcasting by satellite, which in the U.S. view was subject only to the longstanding shortwave limitations set by technical provisions of the ITU.

There is quite a bit of evidence to show that the United States has long been apprehensive about the possibility that "prior consent" principles under consideration in the COPUOS might be extended to include radio signals as well as television. It is even possible that there is fear that any such guiding principles might be extended to the burgeoning network of public-private telecommunications by satellite, which encircle

the world feeding information back and forth between banks and businesses and police networks, to mention but a few. One prominent authority on space law seemed to be making that suggestion in a 1975 commentary on the matter. She was Eilene Galloway, former chief Congressional staff person for the U.S. Senate Committee on Aeronautics and Space Science, and recognized world authority on space law. She speculated that the U.S. opposes "prior consent" for "DTB"(one of the few uses of this acronym in the literature on this subject) "because this is only one form of space communication technology." Pointing to COMSAT and INTELSAT, she added:"This is so strong a combination of governmental and private, national and international endeavor that, I do not believe, they would let one particular technological use, [emphasis added] bring all this into
101
imbalance."

Referring, in 1981, to the desirability of seeking ITU authorization for the use of DBS for international radio broadcasting, a State Department official told a Congressional Committee that such a formal request might "result in efforts by other countries to include DBS sound broadcasting in a prior
102
consent regime". William C. Salmon summarized the official U.S. position on the DBS issue before a Congressional Committee

101. Journal of Space Law, Vol.3.Nos.1-2,p.110.

102. Hearings on International Broadcasting:Direct Broadcast Satellites, 1981, op.cit., p.85.

in October, 1981. He reiterated U.S. support of "non-binding principles" provided they did not include "prior consent" and did not apply "to 'other' [i.e. audio] broadcasting via
103
satellite".

The Canadian jurists Chapman and Warren had guessed at this motive in 1979. Citing a statement by the U.S. representative in COPUOS deliberations that the U.S. government "had no plans" to engage in television broadcasting by satellite to another nation
104
without its consent, Chapman asked:

If, as it now seems clear, DBS will not be used for transmitting programs in the same unregulated way as international short-wave broadcasting in the High Frequency band(HF) why does the USA continue to oppose any UN principle embodying the right of the receiving state to "agree"? One must conclude that the USA fears that any such principle would be an undesirable precedent that could be applied increasingly to other means of communications or dissemination of information.

In 1981 the U.S. government made public its interest in exploring the use of DBS to supplement the shortwave radio broadcasting which it conducts through VOA, RFE, RL and AFRTS (Armed Forces Radio and Television Service, the Defense
105
Department's network for members of the military services). A

103. Ibid, p.46-47. Salmon was Senior Adviser to the Under Secretary of State for Security Assistance, Science and Technology.

104. Chapman and Warren, op.cit., p.430.

105. Congressional Subcommittee Hearings, op.cit., p.41-51.

senior adviser to the Undersecretary of State posed the following questions as indicators of the issues needing study if direct
106
satellite radio broadcasts were to be undertaken:

What are the specific DBS requirements -- both sound and television -- and target areas, and who are the potential U.S. operators of such systems? Can existing facilities be reduced or eliminated upon implementation of DBS? Are DBS systems truly feasible at a reasonable cost, and if not now, when? What are the technical advantages and disadvantages related to the various frequency bands appropriate for DBS? How susceptible are DBS transmissions to jamming or other forms of radio interference? Will the existing ITU provisions accommodate our future requirements, or will substantial changes and additions be necessary? How will DBS operations impact on other radio services? What are the likely reactions of the world community? What are the possible ramifications in other forums, such as the UN General Assembly and the Outer Space Committee?

The chief reason the State Department spokesperson gave for turning to DBS was the need to overcome the reported jamming of existing U.S. shortwave broadcasts by the Soviet Union. He also cited the congestion of the shortwave frequency bands and the unwillingness of the 1979 ITU conference to accept U.S. proposals for enlarged allocations, including the U.S. proposal that the bands already reserved for terrestrial shortwave broadcasting be opened up for shortwave broadcasting via space as well. The implications of the State Department spokesperson's comments were that, lacking ITU permission, the U.S. was refraining from the

106. Ibid, pp.50-51.

use of DBS for its international broadcasting transmissions, although the spokesperson testified that it had been made clear to the 1979 ITU conferees that the United States "reserved the right to take the necessary steps to satisfy our requirements in the short-wave band". Possible steps he mentioned included "use of out-of-band frequencies...on a non-interference basis", methods for more efficient use of HF bands, and the use of
107
satellites.

At the same Congressional Hearing in 1981, James B. Conkling, then Director of the Voice of America, emphasized that direct broadcasting by satellites would be "a very major step in eliminating that vulnerability" which the VOA confronted by virtue of having transmitter stations about the world, including
108
"a large percentage" in the Third World countries.

The ambiguous status of international broadcasting by shortwave has been taken up a few times during this long debate, the experts occasionally expressing puzzlement, occasionally taking it for granted. At the 1973 IISL colloquium a Swiss authority commented: "Surprisingly, there is still now no consultation or review by any international board concerning the

107. Ibid.

108. Hearings, op.cit., p.27. These kinds of transmitter stations are called "slave transmitters" according to a former head of the USIA, Frank Shakespeare. Columbia Journal of Transnational Law, op.cit., p.42.

foreign program broadcasting by a state".¹⁰⁹ Dr. Christian Patermann of West Germany has pressed the idea that the past fifty years of worldwide shortwave international broadcasting without "any kind of thought of giving permission to another country" has had the effect of establishing an "internationally accepted, legally binding practice".¹¹⁰ He has also expressed the fear that regulations or guidelines for DBS could be easily transformed to apply to terrestrial television, to shortwave, mediumwave and longwave radio and all kinds of other communications.¹¹¹

The Columbia University forum on DBS in 1973 (proceedings published in the Columbia Journal of Transnational Law, 1974, Vol.13,pp.1-81) also touched on the question. Speakers took note of the fact that 99 percent of international broadcasting was by shortwave and that it was conducted by most major governments for the purpose of reaching peoples of other countries. The U.S. VOA for example broadcasts in many languages to the Soviet Union, Eastern Europe, China and Cuba, "the closed societies".¹¹² Frank Shakespeare, former VOA director, explained the selection of VOA

109. IISL proceedings, 1973, op.cit., p.85.

110. Christian Patermann, "Applicable Law in Cases of Tort Damages Caused by DBS", Journal of Space Law, Vol.3, No.1-2, p.111-112.

111. Ibid, p.112. Dr. Stephen Gorove, University of Mississippi Center for Space Law, agreed, ibid, p.113.

112. Shakespeare, Columbia Journal of Transnational Law, op.cit., p.42.

target areas: "Shortwave has no real purpose or effect in....the developed and free societies such as those of Western Europe or Japan". "The logic of the situation dictates that government propaganda broadcasts serve no function when peoples have a free media and believe it; they serve a very great function when peoples have no free media and therefore are hungry for

news."¹¹³ Ownership of shortwave sets is quite common in the Soviet Union (122 million sets in 1974) and China, where the governments' internal radio network relies heavily on shortwave due to the vast distances and the centralized control. Radios (most with shortwave receiving capability, are also widely owned in the Middle East (18 million sets in 1975), in Africa (17 million),¹¹⁴ and in India (14 million). Shortwave radios are not in wide use in the U.S., nor are they widely advertised.

As for the fact that shortwave international broadcasting had come into being under ITU procedures without any discussion of "prior consent", Frank Shakespeare speculated in 1973 that "the law never would have been adopted" if the deliberators (presumably meaning the members states of the ITU) had known back there in the 1920's "how powerful and how all-inclusive radio was going to be".¹¹⁵ Shakespeare foresaw that the freedom which had

113. Ibid,p.43.

114. The World Almanac and Book of Facts,1980.New York:Newspaper Enterprise Association,Inc.1980.

115. Shakespeare,op.cit.,p.56.

characterized shortwave radio was now to be extended to television thus posing the question "will governments permit people in their homes to see foreign pictures in addition to foreign voices? The foreign countries such as Canada and England that voted against us in the United Nations are drawing a distinction. They, in essence, say: 'We believe in freedom, but freedom only for voice. We are too scared of pictures. They are too powerful.'"¹¹⁶

Shakespeare's perspective on the difference between traditional shortwave radio and DBS-television left out the question of cost. Because of its relatively low cost, most nations can afford having their own worldwide shortwave broadcasting. But few have the economic or technological base for launching the space rockets which put satellites into the GSO. Another difference is the much higher quality of the space-transmitted signal as contrasted with the terrestrially transmitted signal. And in the case of space-transmitted television there is not only the greater impact of pictures as opposed to voice, but also the overcoming of language barriers which television makes possible. Luiz Felipe de Seixas Correa¹¹⁷ (Brazil) has commented:

116. Ibid.

117. Jasentuliyana in Columbia Journal of Transnational Law, op.cit., p.73.

In view of the stage we have reached in the development of international law, it is inconceivable that a field so pregnant with far-reaching implications should be allowed to evolve without the benefit of rules and norms incorporating the views, interests, concerns and aspirations of all states.

Correa attributed some of the UN's preoccupation with DBS to recognition of "the international tensions which have surrounded short-wave radio broadcasting". The goal is to avoid a repetition of those tensions. "It would be tragic to have the kind of political propaganda one hears on shortwave on home television sets."¹¹⁸

The Consensus Procedure

Another area of negotiation which has taken shape as the U.S. continues its opposition to restrictions on the use of DBS, is the question of the voting procedures which are operative in the Committee on the Peaceful Uses of Outer Space (COPUOS) and its subcommittees.

The consensus procedure was adopted in COPUOS very early as a result of diplomatic negotiations aimed at overcoming USSR opposition to the makeup of the committee, the distribution of Committee offices and the voting procedure.¹¹⁹ The USSR was insisting that the Committee should act only by unanimous vote.

118. Ibid.

119. Queeney, op.cit., p.21.

The United States was opposed. A compromise was agreed upon in late 1961: the COPUOS and its subcommittees would work toward agreement without voting: but if voting became necessary the rules of the General Assembly, allowing for majority rule, would
120
apply.

As the debate over "prior consent" has stretched on and on , member states and their jurists have begun to reexamine the usefulness of consensus, which appeared to be serving mainly the interests of the United States in preventing resolution of the issue. Not surprisingly, the U.S. space law experts began to find great merit in the consensus procedure. Two international space lawyers wrote that the rule of unanimity effected by consensus has proven to be the best basis for achieving lasting
121
international agreement. They cited the meetings of the COPUOS Committees on DBS as evidence of the "full extent to which the differing views have been aired, the only consensus being that practically everyone disagrees and will continue to do
122
so".

120. Queeney, ibid, p.22-23.

121. Amanda L. Moore and Edward F. Finch, "Outer Space Law and the Global Community", International Lawyer, Vol.8, No.4, p.761.

122. Ibid.

Eilene Galloway has described the consensus procedure as productive, having yielded four space treaties all of which have¹²³ been ratified and become part of international law. She recognized that consensus had not permitted agreement on DBS, nor on the definition or delimitation of outer space, nor on the related issue of the equatorial countries' claim to sovereignty over the geostationary orbit. However she attributed these failures not to weakness in the consensus method but to fundamental differences on substance. In any event she stressed¹²⁴ the wisdom of continuing the use of consensus.

Carl Christol observed that although the ITU acted by majority vote, the COPUOS used consensus procedures, which he felt was more suitable to the consideration of abstract social¹²⁵ and legal values (presumably including "prior consent").

By 1979 the idea was being circulated that the continuing COPUOS impasse -- an impasse which included not only the unresolved issue of DBS but also the lack of agreement on legal principles regulating the remote sensing of the earth's resources

123. Eilene Galloway, "Consensus Decisionmaking by the United Nations Committee on the Peaceful Uses of Outer Space". Journal of Space Law, Vol. 7, No. 1, 1979, p. 8. She was referring to the 1967 Space Treaty, the 1968 Agreement on Rescue of Astronauts, and the 1973 and 1976 conventions on registration of, and damages caused by, space objects.

124. Ibid, p. 11.

125. Christol, op.cit, IISL monograph, p. 51.

from space satellite -- might have to be broken by using a
majority voting rule within COPUOS and its subcommittees.¹²⁶

In his updating of the U.S. position on DBS, Wilson Dizard noted that what was important about the consensus principle was that it had kept debate on the broadcast satellite issue "within the relatively restrained precincts of the [COPUOS] Committee".¹²⁷ He recognized that a breach might occur and the issue be put before the United Nations General Assembly, where prior consent "would probably be overwhelmingly approved".¹²⁸
The United States opposes such a course.¹²⁹

It is evident that the United States, in spite of its preeminent world status, has faced many difficulties in negotiating differences in the United Nations forum. Still it has not yet been obliged to accept any limits on the use of space satellites for transmitting television signals into unwilling territories. In general, the issue is perceived by most U.S. analysts as one of freedom versus control, despite accumulating evidence which demonstrates a far greater complexity of factors. The inability or unwillingness of most analysts to uncover and

126. P.P.C.Haanappel, "The Stagnating Development of International Space Law and its Causes", paper delivered at the 22nd colloquium of IISL, Munich, 1979. New York: AIAA, NY, 10019, p.152.

127. Dizard, op.cit., p.162.

128. Ibid, p.167.

129. Congressional Hearings, op.cit., 1981, p.47.

assess some of the complexity may be in part due to their method of study as well as to their unrecognized assumptions. The next section of this work will examine another study perspective.

CHAPTER VI -- MARXIST SOCIAL THEORY, MASS COMMUNICATIONS, AND DBS

SECTION 1 -- SOME METHODOLOGICAL CONSIDERATIONS

The literature on mass communications has expanded markedly in recent decades, in part as a result of the growing world influence of the United Nations, where Third World groupings have pressed claims for a new understanding of the meaning and uses of mass communication, and to which the socialist countries, led by the Soviet Union, have brought their arguments about radio "wars", cultural imperialism, and the centrality of state sovereignty. The concern of UNESCO and the United Nations with a "new world information order" has engendered much new, non-western thinking. So has the quickening pace of cultural exchange. Within the Western sphere of scholarship there has also appeared a small but active sector of critical thinking on the subject of mass communications. A large part of this material has a Marxist or neo-Marxist orientation.

Much can be learned from this rather diverse body of thought, beginning with the contributions of Marx and Engels

themselves and including the many who have built on their work, as well as the many non-Marxists who have borrowed Marxist concepts and used them creatively to develop progressive and non-traditional ways of understanding mass media, especially in its international applications.

It is intended here first to review some important methodological guidelines for understanding the question of transnational broadcasting and the direct broadcast satellite controversy. Subsequent sections of this chapter will propose a theoretical framework within which the substantive issues of the controversy may be understood.

The Social Context

One essential precept of the Marxist method is that particular phenomena, for example mass communications, must be seen as rooted in the social and economic processes of the society in which they function. Communication is "a socially determined phenomenon". "One cannot cognize a certain ...aspect of society deeply without knowing what kind of laws determine¹ social development in general."

Herbert Schiller, speaking of the "daily programming" of the

1. Veikko Pietela, "On the Scientific Status and Position of Communication Research". Monograph, published in Tampere, Finland: Institute of Journalism and Mass Communication, 1977, p.72.

American people, regards it as a process "embedded in the
unquestioned but fundamental socio-economic arrangements that
first determine, and then are reinforced by, property ownership,
division of labor, sex roles, the organization of production, and
the distribution of income".²

Here is Marx's formulation: "In order to study the
connection between intellectual and material production it is
above all essential to conceive the latter in its determined
historical form and not as a general category. For example there
corresponds to the capitalist mode of production a type of
intellectual production quite different from that which
corresponded to the medieval mode of production. Unless material
production itself is understood in its specific historical form,
it is impossible to grasp the characteristics of the intellectual
production which corresponds to it or the reciprocal action
between the two".³

The British writer Raymond Williams believes that studies of
major modern communication systems necessarily interlock
"historically and theoretically with wider analysis of capitalist
society, capitalist economy and the neo-capitalist state". Many

2. Herbert I. Schiller, The Mind Managers. Boston: Beacon
Press, 1973, p.5.

3. Nicholas Garnham, "Contribution to a Political Economy of Mass
Communication". Media, Culture and Society, 1979, I, p.134.

such studies "require analysis in the context of modern imperialism and neo-colonialism, to which they are crucially relevant"⁴ A Polish scholar, Walery Pisarek, has touched on this issue pointing out that to treat mass media, or individual newspapers or broadcasting stations as isolated autonomous phenomena is to neglect key connections -- for example that "the social role of the same newspaper or even the same article changes according to the changing social conditions in which the readers live".⁵

The above-described methodological insistence on the interrelatedness between the phenomenon and its social context has broad implications. To begin with it means that any examination of international broadcasting by satellite must be connected directly to the twentieth century socio-economic structure of advanced capitalism and the social relations which have evolved within that structure, and also to the relations between the capitalist state structures and those states which are perceived as having socio-economic systems different from or hostile to capitalism.

Another application of this methodological insistence on

4. Raymond Williams, Marxism and Literature. London: Oxford University Press, 1977, p.136.

5. Walery Pisarek, "Marxist-Leninist Theory and Methodology of Media Research: Principles and Directives". Cracow: Press Research Center, 1978, p.29.

awareness of the relational context might be seen to occur at the level of the researcher herself, who must confront her relation to the class structure in which she functions. Her research is necessarily "characterized by class orientation both at the stage of conceptualization and of formulation of conclusions". It is not possible to "be an impassive and detached reporter of social and political phenomena in general[nor of...]the process of communication in particular".⁶ Put another way: "an individual has a certain location within the material world and the social relations concretely operating in it."⁷

The importance of History

A related aspect of the Marxist method is that issues can only be understood fully by tracing out their historical context, that is, by identifying the linkages between the phenomena under examination and prior socio-economic trends and events leading up to the present situation. An example is suggested by Armand Mattelart's appeal to researchers to pay more attention to connecting up "what are known as 'content' analyses and analyses of production of discourse with the changes taking place in the regime of capitalist accumulation, with the changes in the relations of the dominated classes with the bourgeois State, with

6. Pisarek, op.cit., p.24.

7. Kzarlle Nordenstreng, "From Mass Media to Mass Consciousness". In George Gerbner, ed., Mass Media Policies and Changing Cultures, New York: Wiley, 1977, p.276.

the changes in the composition of the ruling classes and their systems of alliances and with the evolution of current technical advances".⁸ By applying the historical method to the U.S. role in international cable and radio communication (Chapter II) it is possible to discern and highlight certain trends which would be lost or covered over in ahistorical, here-and-now analyses. For example we may recall the long struggle between state and private enterprise over control of communications technology and processes, and its eventual resolution in an appearance of separateness which under examination was found to conceal the closest kind of cooperation if not integration.

Another example is found in the work of J. D. Bernal, who looks at the history of science not as isolated human endeavor but as deeply embedded in socio-economic processes. In his outline of how scientific discovery is transformed into technical application Bernal emphasizes the determinant role played by the prevailing economic structure, what is called in Marxian terms, the mode of production. "Science is thought of and paid for in proportion to its contribution to increased value of products or reduction of costs".⁹ Bernal was concerned with many of the same

8. Armand Mattelart, "For a 'Class Analysis' of Communication", in Mattelart and Seth Siegelau, eds. Communication and Class Struggle: Vol. 1, Capitalism and Imperialism. New York: International General, 1979, p. 52.

9. J. D. Bernal, The Social Function of Science. New York: Macmillan Co., 1939, p. 131.

issues raised in this study of international satellite broadcasting, especially in the history of early international telecommunications contained in Chapter II. He highlighted the debilitating effects of monopoly, the erosion of the original purposes of patents which occurs when they are turned into controls which thwart rather than promote invention, the disinterest in using scientific inventions for improving the life condition of humankind above and beyond the profit-making interest. What is significant about Bernal's work in the history of science is his insistent intertwining of the emergence of science and invention with the concurrent history of social attitudes and values.

History as Process

Implied by Mattelart's and Bernal's net of historically evolving interconnections is another fundamental methodological tenet of the Marxist approach. That is, that the human condition is best comprehended as a process, ever-unfolding. This processual emphasis embraces the concept of dialectical contradiction, which views phenomena as constantly transforming, constantly in tension or conflict. Marx used and developed this Hegelian idea in his various social analyses as exemplified in the familiar formulation: "at a certain stage of their development, the material productive forces of society come in conflict with the existing relations of production, or -- what is but a legal expression for the same thing -- with the property

relations within which they had been at work hitherto. From forms of development of the productive forces these relations turn into fetters. Then begins an epoch of social

¹⁰
revolution". A present-day commentator on this paragraph from Marx explains: "the Marxist view is that the tension between productive forces and productive relations...leads to class conflict. This class conflict occurs within (1) the productive relations, (2) all social and political institutions, and (3) the realm of ideas. Eventually the class conflict causes revolutionary change in productive relations, institutions, and ideas. The new productive relations, new institutions, and new ideas resulting from the revolution lead to a new expansion of the productive forces (including technology), although the form of the new is still influenced by the old forces".
¹¹

An application of this approach is found in the hypothesis that "the communications revolution is shaped by regional and class struggles, by powerful capitalist forces molding that

10. Karl Marx, "Preface to a Critique of Political Economy", reprinted in Howard Selsam et.al., eds., Dynamics of Social Change. New York: International Publishers, 1970, p.52.

11. Howard J. Sherman, "Technology vis-a-vis Institutions: A Marxist Commentary". Journal of Economic Issues, Vol. XIII, No. 1, March, 1979, p.188.

revolution to meet accumulation and legitimacy needs, and non-capitalist forces resisting hegemony and using information¹² resources to build a new social order".

In the present study an attempt has been made to retain a sense of the incomplete character of the DBS controversy, emphasizing the ongoing diplomatic negotiating processes, the evolving nature of international "space law", the adaptivity, even inconstancy, of sociological communications theory, and the ever-shifting play of international forces.

Critique as Method

Another characteristic of a Marxist method of social analysis is the effort to go beyond appearances, to tease out meanings, to be exhaustively critical of the "givens", and of the assumptions and findings of contemporary social science and social theory. In their search for latent or unspoken meanings Marxist students of communications have uncovered among other things the widespread and uncritical acceptance of market terminology in American communications sociology. Communication itself "is conceived in the American communication research...as an exchange of information, meanings, etc., between people". The choice of the market analogy is symptomatic of something deeper:

12. Vincent Mosco and Andrew Herman, "Radical Social Theory and the Communications Revolution" (mimeo). Paper delivered at 4th Annual Conference on the Current State of Marxist Theory, University of Louisville, 1979, p.3.

"it is precisely exchange that gives the visible ethos to a capitalist society in general".¹³ But "when communication is reduced to the scheme of an exchange act between two persons it becomes cut off from those basic forces whose manifestation it is, and consequently its true understanding is made impossible". Thus we become aware of the misleading character of the words we are obliged to use. To equate "communications" with "exchange" implies equal power for sender and receiver; "media" is used to lump together global news-gathering corporations with the village gazette; the "human right" to enjoy "free flow of information" is a right enjoyed only by the powerful news conglomerates or nation-states but is made to appear as an individual right to exchange information with other individuals. In the whole construction the "receiver" as free agent in a free exchange process takes on a grotesque unreality. Mattelart comments: "....the term 'means of communication' is rarely used by bourgeois sociologists, and has been hidden behind the economically and politically neutral terms 'communication media', 'mass communication media', and particularly 'mass media'. Thus the materiality of the means of communication is obfuscated, and the immaterial aspects are emphasized; the final result is that the product of the media is substituted for the production¹⁴ process of communication".

13. Pietala, op.cit., p.45-46.

14. Ibid, p.46.

The insistence on a critical stance with regard to both the terminology and substance of mainstream social science also permits a reexamination of the manifold claims of empiricism. While frequently useful and illuminating, empiricism cannot be substituted for critical thinking and reflection nor can it be permitted to obscure the web of interconnecting relationships which tie a phenomenon to its social, political and economic conditions. A Finnish authority on communications research, Veikko Pietala, gives this description of western empirical sociology's approach to communications research: "mass communication and communication in general are seen....as a certain class of social phenomena, discernible as such from social phenomena of other kinds... Therefore the fact that communication is always a manifestation of something else becomes obscure and easily ignored". He gives an example:"Because the wielding of power usually requires communication, the phenomenal approach easily conceives the power relations as communication relations, which they on no account are".¹⁵

Mattelart proposes that the effect of the empiricism of mainstream communications sociology is to preclude any notion of class. Bourgeois empiricism he says, puts forth the following position: "reality is just as it appears, the meaning of the message is limited to its explicit content, all relationships

15. Ibid,p.50.

established between individuals and social groups are transparent, and the exchange effected between the producer and the consumer, between the transmitter and the receiver, between the center and the periphery is an exchange carried out under conditions of equality and objectivity." And further, "the notion of class contradicts the sacred truth according to which, since everyone is free to receive information, everyone is also free to express and transmit his or her own information to others".¹⁶

Validation through Praxis

It should be noted that Marxist-oriented researchers are not at all in agreement on all the components of the Marxist method. One of the tenets on which there is some divergence is the requirement that what is theorized must be validated through a praxis which is aimed at transforming society, to wit: "Social practice is the only criterion of veracity."¹⁷ Or, speaking of those who study mass communications:¹⁸ "The degree of our understanding [of the nature of the political struggle within communication] has a profound effect on how we further elaborate our communication practice and fight that imposed by the dominant

16. Mattelart, in Mattelart and Siegelaub, op.cit., p.39.

17. Pisarek, op.cit., p.33.

18. Seth Siegelaub, "Preface: A Communication on Communication", in Mattelart and Siegelaub, eds., op.cit., p.15.

classes". Also on this point, Herbert Schiller, who sees the domain of communications research as "nothing less than the physical, structural, institutional bases of a system of domination that operates through its impact on human consciousness", calls for "critical opposition to the foundations of what is now hailed as 'the information society'".¹⁹

Summary

Taken together, the above enumerated components of a method provide a useful beginning for understanding the present controversy between nation-states over the possibility of unregulated expansion of television broadcasting across national borders. They make clear that the issue cannot be disconnected from the capitalist forms of television broadcasting, ownership and control which exist in the United States, the most powerful and influential participant in the controversy. Nor can it be separated from the economic and social class structures which prevail in the United States and in the countries to which direct television broadcasting by the satellite would be beamed. Further, the direct broadcast satellite cannot be perceived solely as a new and ahistorical technology. While it represents an enormous advance in radio capability, the issues it raises can

19. Herbert Schiller, "Information for What Kind of Society?" (mimeo), in collection of papers for Schiller's course in "The Political Economy of Mass Communications in the United States", 1982, UCSD, San Diego, p.227.

be discerned in the earliest applications, a century ago, when nation states first began to use the electromagnetic telegraph to lubricate the necessary exchange processes of industry and to strengthen the arm of the state. A knowledge of the tensions and rivalries between nations and between corporations which arose concurrently with the development of the telegraph, the undersea cable, the emergence of wireless, and the rise of international radio telephone and shortwave provides a basis for analysis of the forces at work in the present controversy.

In the examination of international space law (Chapter IV) it was noted that legal authorities from the Soviet Union argued that international law was itself a form of struggle. It is an interpretation foreign to Western legal theory but provocative and illuminating if reexamined through a lens which sees history as a process, involving interacting class forces as well as nation-states, a process which, when contentions reach certain levels, takes the form of sweeping social change. This methodological guideline, that social existence is to be understood as class forces in conflictual struggle, is useful as a guide to the comprehension of radio and television broadcasting as we know them. True, non-Marxists as well as Marxists have commented repeatedly on the unrealized but potentially liberating quality of the electronic miracle of the radio signal -- pointing out how it can give voice to those long-silenced, empower the powerless, bring education and improved hygiene to the illiterate

and impoverished. But in the Marxist framework the "potential" is seen as transformatory, even revolutionary. It is also seen as proceeding from the ongoing material development of production processes. How does this happen? A sketchy and therefore oversimplified formulation would be that mass communication radio and television, as presently organized, under capitalist imperatives, must necessarily reach ever-larger masses in order to realize ever larger profits or achieve ever more efficient cost-benefit ratios. But the world mass population to which it is directed may thereby gain television literacy and with it a degree of social awareness and self consciousness which could at some point serve to undermine existing power arrangements, including the control and use of radio and television. A contemporary example ²⁰ might be the current conflicts in South Africa or in Central America, with their tumultuous mix of new consciousness, epidemic liberation assertions, and the increasing popular sophistication engendered by exposure to mass media, a

20. Consider this statement from Venezuelan President Carlos Andres Perez in 1976: "Our people live submitted to an uncontrolled invasion of news which inculcates distant values that threaten our national identity. Such a fallacious concept of freedom of information, leaving absolute decisionmaking power about the information given to people in the hands of transnational news enterprises can only be termed unjust. The international press only collects information that undermines the image of our people...ignoring our struggles, our efforts and just claims for a system of international justice." Cited in "The Old Information Order -- A Concept Trapped in Time", adapted from a report of the Instituto Latinoamericano de Estudios Transnacionales (ILET) in Mexico. NACLA Report on the Americas, Vol. XVI, No. 4, July-Aug., 1982, p.15.

technology which in a number of instances they now use as a counter weapon.

The critical stance which Marxism requires of any analysis of capitalist society is useful for unpacking and defusing the ideological commitments which protect and overarch much of contemporary sociological theorizing about mass communications. The review of American communications sociology in Chapter III provided some examples.

Finally, the methodological commitment to social transformation implies acceptance of the fact that no research can be undertaken which does not carry within it political purpose, implied or overt. This relationship has been illustrated in the U.S. with the proliferation of sponsored and militarized scholarly research since World War II. Another example is the work of this dissertation which, while designed to trace the history and development of mass communication across national borders, and to clarify the substance of the debate over international control of such broadcasting, bears also the writer's purpose of serving the interests of the millions of people who are increasingly subjected to external economic and communications forces which seek to control, direct and profit from their existence, and to rename, coopt or suppress the opposition they might offer. Speaking for communications scholars who identify with the critical approach, one among them recently wrote: "By attempting to trace the historical nature of

communication, information and culture, our need is eminently contemporary and political: to learn from this experience, to better distinguish between the 'organic' and 'conjunctural' movement in communication (to use the words of Gramsci), to better discern the specific nature of each class's communication, and especially to draw the political implications flowing from present tendencies in communication."

21

21. Siegelau, in Mattelart and Siegelau, op.cit., p.19.

SECTION 2 -- A THEORETICAL FRAMEWORK

As may be seen from the preceding section on method, it is difficult to separate the methodological components of Marxism from its substance. In reviewing those methodological elements, we have already come across much that is theoretical and substantive, including such central tenets as history-as-process, the determinative effects that material conditions of life have on humankind, the interrelatedness of phenomena, and the essentiality of history. Still, despite possible repetition, it will be worthwhile here to discuss a number of core concepts arising out of Marxist social theory, which seem especially significant to the understanding of mass communications development. Separating them out for purposes of discussion should not be allowed to obscure their interrelatedness within a social whole.

Fundamental to Marxist social theory is the understanding that the mode of production is a key determinant of how a society thinks about itself. Mode of production is the term used for the way in which a society proceeds to meet the material needs of its members, including the means (tools, processed materials, physical structures) by which the production of goods and services is accomplished, and also including the relations

existing between the participants in the production process (some as owners, most as non-owners who sell their labor to the owners). The sum of these, the means and the relations of production, provides a picture of the prevailing mode of production which is seen as pervasively affecting the lives and beliefs of those within it. In Marx's words: 22

In the social production of their life, men enter into definite relations that are indispensable and independent of their will, relations of production which correspond to a definite stage of development of their material productive forces. The sum total of these relations of production constitutes the economic structure of society, the real foundation, on which rises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the social, political and intellectual life process in general. It is not the consciousness of men that determines their being, but, on the contrary, their social being that determines their consciousness.

To illustrate, the fact that we are today living in a time and place where the capitalist mode of production has reached a high point of development means that our daily lives, political and social relationships, sets of beliefs and the institutions by which we more or less maintain social order are fundamentally shaped by that mode of production. Two non-Marxists (Peter Berger and Thomas Luckman) explain that what concerned Marx was

22. "Preface to A Contribution to the Critique of Political Economy" Karl Marx. The Marx-Engels Reader, Robert C. Tucker, ed. New York: W.W. Norton, 1972, p.4.

that "human thought is founded in human activity ('labor' in the widest sense of the word) and in social relations brought about by this activity".²³ Another formulation: "ideas do not arise in a vacuum, but within a particular social environment on a particular economic base".²⁴

Looking at contemporary mass communications in the United States in this light, we recognize their primary role as an integral part of a capitalist economic order: they exist as a form of production with the purpose of increasing the invested capital, in order to further expand the production cycle, to make possible new investment and to enhance the wealth of the owners of the capital. "The cultural-communications sector of the world [market] system necessarily develops in accordance with and facilitates the aims and objectives of the general system....Cultural-informational outputs are largely, though not entirely, determined by the same market imperatives that govern the overall system's production of goods and services".²⁵

A closer look at how the agencies of mass communication

23. Peter Berger and Thomas Luckman, The Social Construction of Reality. Garden City, NY: Doubleday, 1966, p.6. Quoted in Howard J. Sherman, "Technology vis-a-vis Institutions: A Marxist Commentary". Journal of Economic Issues. Vol. XIII, No. 1, March, 1979.

24. Howard Sherman, op.cit., (in previous footnote), p.181.

25. Herbert I. Schiller, Communication and Cultural Domination. White Plains, NY: International Arts and Sciences Press, Inc., 1976, p.6.

function leads us to see a second purpose, additional to economic production. Because their commodities are ideas, the media owners can not only sell them for profit²⁶ but also use them, or arrange for them to be used, to reenforce the sets of beliefs which are necessary to the ongoing operation of the prevailing mode of production. This double value of the output of the media industry may be understood more clearly within the theory of society which posits both a material base of production and a corresponding culture of social values and institutions which in various ways arise out of or are reflective of the conditions and needs of the material base.

Culture and the Material Base

In the Marxist worldview, capitalist production (the dominant economic form of life in the twentieth century) is understood as the material base of society; the culture, or sets of beliefs and social institutions, which it in large part engenders or undergirds is perceived as arising out of, constructed on and interacting with the material base. Turning to mass communications as they have developed in the United

26. Herbert Schiller quotes a capitalist enthusiast remarking about the special quality of "information": "You can sell information over and over again and still have it." Who Knows: Information in the Age of the Fortune 500. Norwood, N.J.: Ablex Publishing, 1981, p.9.

States, it may be seen that they actively function in both spheres of this model, in "the base", as commodities produced for consumption, and in the cultural realm, as carriers of ideology.²⁷ It is a duality which appears to considerably differentiate the mass media industry from most other forms of material production. An analogy can be made with architecture, which is not only architectural design but "constitutes by itself a very efficient means of propaganda, and as such...has been used by Roman emperors, French kings or Latin American dictators....[A]rchitecture is a form of 'mass media', and as such is both infrastructure and superstructure, industry and art,²⁸ technology and ideology".

To perceive the influential and determining role of the capitalist mode of production as it works itself out in the field of electronic and mass communications is to open up new levels of understanding of the conditions we are here examining.

27. An early illustration of how selling an idea can be related to selling a commodity is found in the following excerpt from a 1926 memo which Will Hays, then president of Motion Picture Producers and Distributors of America Inc., sent to the U.S. Secretary of State: "...trade follows the film, rather than the flag... the screen acts as a voiceless salesman for the goods it pictures". From brochure: "De Peliculos: Proposal for a Film", P. Bender, D. Halleck, B. Summers. Mimeo. 1985.

28. Leonardo Acosta, "Mass Media and Imperialist Ideology". Casa de las Americas, Havana. No. 77, March-April, 1973, p. 153-154. Reprinted in Siegelau and Mattelart, op. cit. To illustrate how architecture can be both propaganda and technology, Acosta, a Cuban, cites "development projects" like Brasilia and Chandigarh, which are "presented as models for the so-called Third World".

Transnational industry's compelling need to expand, and the dual nature of that expansion when it occurs in the mass communications industry (ideas-as-commodities and ideas-as-legitimation) is revealed as not only driving the communications industry ever deeper into world markets but also into the social and cultural spheres of the lives of the peoples who make up those markets. A Marxist communications analyst provides this assessment: "The massive one-way traffic of socio-cultural perspectives manufactured in the metropolis structures the symbolic environment of Third World populations." The market needs of transnational firms mandate "an optimal levelling of cultural differences in order that national characteristics do not jeopardize the unity of the transnational system". The advertising and marketing branch of the international information industry may be seen as an important carrier of this process as it "propagates worldwide the concept of the global shopping center."

Seen in this perspective the significant growth and concentration patterns of the media industries -- three fourths of the present informational market is controlled by some 80 transnational corporations; 10% to 15% of the world's largest

29. Cees Hamelink, "The New Information Order and the Industrial State", Peace and the Sciences, 1/78. International Institute for Peace Vienna, p.6. Hamelink gives as examples of the advertising operations: "the sales of Barbie dolls to starving children in Recife"; "'white is beautiful' skin cream to black Africans"; and "CIA activities and the design of Chilean counter-revolution".

corporations are involved in the international information trade -- must be understood not as conspiratorial plot to undermine foreign cultures and economies but as logical outcome of a particular mode of production. Many useful studies of the transnational media industries, lacking the larger framework of critical social theory, fail to take account of the interaction between the needs of a production system and its development and effect in the cultural and ideological realms.

But here it is important to add that while the "determining" impact of the expanding capitalist mode of production on value systems and institutions of social order is profound and fundamental it is not by any means a one-way relationship. Precisely what kind of relationship it is has become an increasingly contentious point of debate between Marxists. Some question to what degree the "determining" process is actually effective, or "necessary", or "inevitable": grave misgivings are expressed about the cause-and-effect rigidities of the more orthodox or classical Marxists -- Soviet theorists often appear to bear the brunt of these critiques. In general the new critics tend to be drawn ever farther from any connection with the

30. For example, Thomas L. McPhail, Electronic Colonialism: the Future of International Broadcasting and Communication. Beverly Hills: Sage Publications, 1981; Jeremy Tunstall, The Media Are American: Anglo-American Media in the World, New York: Columbia University Press, 1977; Alan Wells, Picture Tube Imperialism? A Case Study of Television. Maryknoll, NY: Orbis Books, 1972; Anthony Smith, The Geopolitics of Information: How Western Culture Dominates the World. New York: Oxford University Press, 1980.

fundamental concerns of Marxism -- class conflict, exploitation,
 31
 resistance and social transformation. On the positive side,
 however, in some cases their work has led to a wider recognition
 of the complexity and rich suggestiveness of the relationship
 32
 between material forces and consciousness. The British Marxist
 Ray Williams is one of those who have enriched the sometimes too
 reductionist model of a "determining base" and a "determined
 superstructure" or ideology. Drawn to Gramsci's theory of
 hegemony, as a more comprehensive and subtle conceptualization of
 how social control processes saturate "the whole process of
 living", Williams calls for including social formations in the
 research project, seeking to uncover for example not only how the
 capitalist mode of production distributes and promotes its
 commodities but how the vast body of its practices and
 expectations reach into the whole of living, and how such
 practices and expectations appear as reciprocally confirming
 33
 even as they are experienced.

 31. For an analysis of the shortcomings of the "Western Marxists"
 see George Snedeker, "Western Marxism and the Problem of History".
Psychology and Social Theory. No. 4, 1984.

32. An illustration of the contending points of view is to be
 found in an exchange between on the one hand Abercrombie, Hill
 and Turner, authors of The Dominant Ideology Thesis (they reject
 it) and on the other Goran Therborn (he feels it can be developed
 and usefully applied). "Determinacy and Indeterminacy in the
 Theory of Ideology", N. Abercrombie, S. Hill and R. S. Turner. New Left
 Review, No. 142, Nov-Dec 1983; G. Therborn, "New Questions of
 Subjectivity", NLR, No. 143, Jan-Feb, 1984.

33. Ray Williams. Marxism and Literature. Oxford: Oxford University
 Press, 1977, p. 110 and pp. 139-40.

Others who have joined Williams in the further explication of hegemony and its implications for the base/superstructure model appear to use their critiques to move out of the Marxist framework entirely, rejecting not only the centrality of the mode of production but also the emphasis which Marx placed on the formation and catalytic role of the working class.³⁴ It is an argument which we will here set to one side in favor of pointing to the areas of agreement that there is indeed a far-reaching complex and dialectical relationship between the material base (the mode of production) and the many cultural and superstructural levels of society where social control, ideology, and institutionalized value structures perform their roles.

It should be added and emphasized that while Marxist theory accords to the material conditions of existence a dominant and determining role over the ideas and ideology of a society, a fuller unfolding of Marxist sociology shows that ideas and ideology, when they take hold of people's consciousness, can also influence material conditions.³⁵ A contemporary formulation: "Human activity forms the conditions under which human ideas come into being, but once these ideas exist, they constitute an

34. Ernest Laclau and Chantal Mouffe, Hegemony and Socialist Strategy: Towards a Radical Democratic Politics. London: Verso, 1985; A. Cutler, B. Hindess, P. Hirst and A. Hussein, Marx's Capital and Capitalism Today. London, 1977, 2 vols.]

35. Howard Sherman, op.cit., p.182.

important force (for example the ideas of liberty, equality and fraternity)". Marx's own thinking about the distinction between the two spheres may be seen in his description of how social revolution occurs: not only in the "economic sphere" of production but also in "the juridical, political, religious, aesthetic or philosophic -- in a word, ideological forms wherein³⁶ men become conscious of this conflict and fight it out". In a later section attention will be given to this possibility of conflict and to the forms which it may take.

The State

The Marxist perspective which differentiates between the material base of society and the realm of the cultural and ideological is helpful in illuminating the dual character of mass communications as well as the imperatives of capitalism to create world markets and the consumerist mentalities that make those markets possible. It also provides a framework for considering the nature of the state. In what is necessarily an oversimplification of Marx's original analysis of capitalist society, it may be said that he viewed the contemporary state as located in the sphere of the superstructural, identifying it in effect as an organized form of social control installed and maintained by the dominant forces of a specific time and society. In the intervening years since Marx so described it,

36. Marx, ibid.

the state has been much theorized about, both by non-Marxist liberals seeking to shore up the long-prevailing view of the state as neutral arbiter between a plurality of forces, and by Western or neo-Marxists. The latter, working in the light of contemporary history including the emergence of socialist states, have sought to determine the degree to which the state might be autonomous from the influence and determinations of the dominant forces. A number of subtleties and refinements have emerged but there is still wide agreement today in contemporary Marxism that the modern capitalist state is in fundamental ways an apparatus shaped and controlled by the ruling elite, although as was also true of Marx's original view, tension and even struggle arise in the course of exercising and retaining that control.

The relationship between the state and the dominant mode of production is an important one for understanding mass communications today, and especially the role of the United States in its long debate over the direct broadcast satellite. As we have seen, mainstream social scientists and observers have tended to identify the United States' anti-"prior consent" position with the abstract concepts of "freedom" and the rule of constitutional law, accepting these as ahistorical principles without recognizing their connections to a material base. Thus they leave unexamined such questions as how "free flow" is invoked to serve the market needs of the communications industry, or how the portrayal of "free" is sanctified by the same media

industry, or perhaps most important, how and by what processes that industry effectively influences and shapes the official government policies it requires to ensure its market processes. A recent example of the media industry's influence on government policy may be seen in the U.S. withdrawal from Unesco. A major factor in bringing about withdrawal was the strong opposition of newspaper publishers and news-gathering and broadcasting corporations to what they perceived as Unesco's move in the direction of inhibiting their news businesses, evidenced by the call for a "new world information order" (NWIO) to redress international information imbalances. The media industry's opposition was formalized in what it called the Talloires Declaration, issued in 1981 and setting forth the position that "Denying freedom of the press denies all freedom of the individual" and asserting "the importance of advertising as a consumer service and in providing financial support for a strong and self-sustaining press", without which "the press cannot be independent.³⁷ It continues a long tradition. For as we have seen throughout this study, from the time the story of transnational electromagnetic communication began, on through the original formation of the Radio Corporation of America, the rise

37. New York Times, May 18, 1981, p.A14. Schiller has argued that the only "world information order" which had previously existed had been "an American one". See "Breaking the West's Media Monopoly", The Nation, Sept. 21, 1985, Vol. 241, No. 8. See also Kaarle Nordenstreng, The Mass Media Declaration of Unesco, Norwood, N.J.: Ablex Publishing Corp. 1984.

of the Federal Communications Commission, the subsequent development of international and internal broadcasting regulation, and the post-war emergence of huge private telecommunications conglomerates, the decisions made by the communications industry soon turn up as decisions of the U.S. government. Nowhere has the fusion of state and capital been more manifest than in the creation of COMSAT (Communications Satellite Corporation), a profitmaking private corporation created by public law and assisted by vast outlays of public tax money. The triumph of COMSAT is exemplified in INTELSAT (International Telecommunications Satellite organization), the multi-nation entity it created in the 60's and which is now put forward as a world model for entrepreneurial cooperation in transborder telecommunications. COMSAT, as the major stockholder of this government-corporate hybrid, is in a position to strongly influence if not outvote the 109 other nation-state stockholders, and to proceed with a steady erosion of their sovereignty in the interests of the greater efficiency and advanced technology which is promised them within INTELSAT. Thus the struggle between nation-states over the limited space communications resources is reduced by INTELSAT promoters to a struggle between "the competitive market philosophy", which is INTELSAT's way, versus the "natural monopoly philosophy", which is perceived as the narrow and still persisting demand which asserts each government's right to control its own telecommunications via space satellite, in line with "common

heritage of mankind" approaches to outer space. INTELSAT is recommended as a preferred alternative to such ideas as "common heritage", in that in it "investment shares, earnings, and to some extent voting power correspond directly to the percentage of use a nation makes of the INTELSAT system. Thus, while all mankind can benefit from the INTELSAT system, there is no overemphasis on guaranteeing absolute equal treatment of all participants." ³⁸ This remarkable appeal against the dangers of equal treatment was put forward recently as preparatory advice to the delegates who were to represent the U.S. at another round of ITU negotiations on the GSO.

Another area where telecommunications are profoundly affected by the symbiosis between state and the holders of economic power is to be found in the role played by the state as legitimate guardian of U.S. interests at home and abroad. This requires that it have control of military communications networks on a world scale, as indeed the Pentagon has, both independent of and in conjunction with the corporate telecommunications networks. The recognition of state structures as adjunctive to the imperatives of capitalism makes it possible to understand motives and events which are usually passed over. For example,

38. "First Report of the FCC Advisory Committee made in preparation for the ITU's WARC-ORB-85 (World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing it)." Dec, 1983, p. 4-15.

it lets us see that the present drive for nuclear military strength sufficient to ensure U.S. superiority in the world is a necessary condition for unrestrained movement of capital to wherever it finds profitmaking possible, including the flow of mass communications production via satellite. While the official government uses of radio for international broadcasting are different from U.S. commercial broadcasting -- fewer strident claims to "news neutrality", financial support via taxes rather than advertising, less subtle persuasion techniques -- their alignment with the dominant forces is no less clear. As a component of the state VOA uses the mass broadcasting technology to diffuse and make acceptable an ideology which is supportive of the dominant mode of production in the U.S. The more militant voices of RFE, RL, Radio Marti and soon-to-be Radio Free Afghanistan³⁹ and Radio Maccabee (directed toward Jews living in the Soviet Union) offer in the main what are simply intensifications of the VOA message plus broadcasts aimed at socialist countries with the purpose of undermining and destabilizing their social cohesion and governmental structures. The military and intelligence uses of mass communications across national borders provide the most aggressive wing of this psychological warfare, again with the purpose of preserving and protecting the needs of the American economy for markets and raw materials. Miguel Blandon, director of Radio Sandino and -----

39. "Come in, Afghanistan", New York Times, Oct. 1, 1985, p. A24.

Nicaragua's representative at a recent meeting of the Nonaligned Movement's Radio Broadcasting Organizations, provided this comment (duly reported in the U.S. via the Worldwide Report: Telecommunications Policy, Research and Development, No. 250, a compilation of the CIA's Joint Publication Research Service):

One of the most important subjects, as we see it, is the use of radio broadcasting as a means of aggression against our countries. Nicaragua, being a weak country, does not have much technology and therefore cannot defend itself in the broadcasting field, and it is the victim of flagrant attacks from the United States, a very rich world power that can afford the luxury of installing transmitters in neighboring countries along our border in order to penetrate and try to influence the most backward sectors of the population. Therefore, this is, for us, one important and hot issue, because it is very much linked with the military attacks that we are suffering, especially from the northern border. As we all know, these attacks are always linked with counterrevolutionary radio broadcasts that prepare the conditions so that these people may operate more easily...

40. Cited in Review of International Broadcasting, No. 76, May, 1983, p. 37.

Hegemony and Class Formation

In the preceding sections of this discussion we have dealt with how the mode of production is determinant in a specific society, and with the relationship of the mode of production to the cultural components of that society, and to the state. It should be emphasized that the Marxist idea that it is materiality which shapes consciousness is not to be understood as a fixed or abstract or one-way relationship but rather a relationship which arises anew out of a play of forces under specific conditions and in specific historical periods. The influence of material conditions manifests itself in varied ways among groups of people holding different social positions, and is reflective of their interaction with one another. It is in such a context that we now take up the Marxist concept of class.

The complexity of Marx's concept of class and class formation is well illustrated by this frequently cited passage⁴² from his Eighteenth Brumaire, where he is describing the small-holding French peasants' relationship to Louis Bonaparte in the 1850's.

The small-holding peasants form a vast mass, the members of which live in similar conditions but without entering into manifold relations with one another.

42. Karl Marx, The Eighteenth Brumaire of Louis Bonaparte. New York: International Publishers, 1972, pp. 123-124.

Their mode of production isolates them from one another instead of bringing them into mutual intercourse. The isolation is increased by France's bad means of communication and by the poverty of the peasants. Their field of production, the small holding, admits of no division of labour in its cultivation, no application of science and, therefore, no diversity of development, no variety of talent, no wealth of social relationships.

The result is that the "great mass of the French nation is formed by simple addition of homologous magnitudes, much as potatoes in a sack form a sack of potatoes." He concludes:

In so far as millions of families live under economic conditions of existence that separate their mode of life, their interests and their culture from those of the other classes, and put them in hostile opposition to the latter, they form a class. In so far as there is merely a local interconnection among these small-holding peasants, and the identity of their interests begets no community, no national bond and no political organization among them, they do not form a class.

From his observations here and elsewhere in his work it is clear that Marx saw class formation and class consciousness as flowing from a complex social process. The fact of being a worker, whether on a small-holding or in a factory, does not by itself confer awareness, consciousness of class status, nor a sense of solidarity with one's fellow workers as against the dominant class. Consciousness and its potential as a foundation for class action is only realized through the knowledge gained by working in harness with others, communicating with a broad sector of fellow workers, developing political and national awareness, organizing. It is a theory that builds directly on the

importance of material conditions -- the kind of work one does and the level of subsistence one has -- as primary determinants of one's ideas about oneself: "The mode of production in material life determines the social, political and intellectual life processes in general".⁴² But, as modern life has made very clear, there are other factors in addition to material conditions which influence the intellectual processes necessary to the development of "class consciousness". Central among these has been the ever-increasing spread of literacy and the availability of information. With the growing democratization of Western society, a process ignited only two centuries ago by the French Revolution, people gained access to information which had previously been reserved for an educated elite. Newspapers, the penny press, broadsides, pamphlets all became commonplace.⁴³ In our own time, concurrent with the growth of capitalism on a world scale, humankind has experienced an even greater access to information, via a mass media that includes not only print but the visual and voice transmissions made possible through radio waves. As we have seen, a special characteristic of the new mass media -- "the consciousness industry"⁴⁴, as the contemporary

42. Marx, "A Contribution to the Critique of Political Economy", reprinted in Mattelart and Siegelau, op.cit., p.73.

43. See Victor E. Neuberg, Popular Literature: A History and Guide. New York: Penguin Books, 1977.

44. Hans Magnus Enzensberger, The Consciousness Industry: On Literature, Politics and the Media. New York: Seabury Press, 1974.

press, radio and television are called by one media critic-- is that it is mostly owned by members of the dominant class and that its purpose is to maximize profits and also to advance ideas which are supportive of the prevailing economic system. Or as Marx and Engels put it: "The ideas of the ruling class are in every epoch the ruling ideas: i.e., the class which is the ruling material force of society is at the same time its ruling intellectual force".⁴⁵

Gramsci, himself a journalist before his long imprisonment, was among the early twentieth century Marxist theoreticians who took up the question of how "class consciousness" was to be achieved among the masses. His early life experience in Italy where he had felt the full force of the dominant class as it prevailed over the movement toward socialism, led him to a profound rethinking of how authority is exercised in the ideological arena of a society. Gramsci delineated two sections of that arena: "one that can be called 'civil society', that is the ensemble of organisms commonly called 'private', and that of 'political society' or 'the State'..." In the former, ("civil society"), the dominant group holds power through indirect means. In the latter ("political

45. The German Ideology, New York: International Publishers, 1970, p.64.

society"), it holds power through "'direct domination' or command, exercised through the State and 'juridical'

47
government." His elaboration of the forms of indirect control
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is significant:

The "spontaneous" consent given by the great masses of the population to the general direction imposed on social life by the dominant fundamental group....is "historically" caused by the prestige (and consequent confidence) which the dominant group enjoys because of its position and function in the world of production.

Gramsci's formulation permits us to consider how the prestige of corporate mass media confers legitimacy on both its message and its message senders. That this appears to occur in a "civil" or "indirect" or seemingly "private" realm, beyond the command of government gives it added persuasiveness.

49
Pietala suggests that as the bourgeoisie confronted the rise of socialism in this century it sought to counter it by relying on this form of ideological control, exercised predominantly through mass media: "...this ideological regulation, connected with the fetishized nature of the apparent social reality, accounts for the fact that it is not easy for the

47. Antonio Gramsci, Selections from the Prison Notebooks. Quinton Hoare and Geoffrey Nowell Smith, eds. New York: International Publishers, 1971, p.12.

48. Ibid.

49. Op.cit., p.78.

working class in capitalist societies to avoid adopting bourgeois ways of thinking".

Successive Marxist and progressive theoreticians, as they have examined mass communications, have taken up the Gramscian propositions as to how the dominant forces exercise hegemony.
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Miliband approvingly cites G. A. Williams' definition of the process as "an order in which a certain way of thought and life is dominant, in which one concept of reality is diffused throughout society....informing with its spirit ...all social relations, particularly in their moral and intellectual connotation". In the West, this diffusion of certain ways of thinking is generally accomplished without overt directives. It is unusual to find as clear a statement as the following policy issued by Procter and Gamble to the networks with which it advertises: "There will be no material [in programs sponsored by Procter and Gamble] that may give offence, either directly or by inference, to any commercial organization of any sort....[or] which could in any way further the concept of business as cold,
51
ruthless and lacking all sentiment or spiritual motivation".

50. Ralph Miliband, The State in Capitalist Society. New York: Basic Books, 1969. He is citing G.A. Williams, "Gramsci's Concept of Egemonia", Journal of the History of Ideas, 1960. Vol. 21. No. 4., p. 587.

51. From Timothy Green's The Universal Eye. London: The Bodley Head, 1972, cited by Judith Todd in "The News Business", World Marxist Review, July, 1973, pp. 129-130.

A more usual approach is an admixture of the overt with the latent message, as is described by Acosta: "This technique manipulates associations by projecting images indirectly. The overt message, generally reflects the official ideology of the system (liberty, democracy, individualism). While the latent injects the spectator with the mimetic image of the system and the submission to its paternalistic and authoritarian values. The latent message of many television dramas and comedies is essentially the 'uselessness of rebellion' and the 'convenience of conforming'."⁵²

Tuchman offers this formulation: "American television perpetuates hegemony; it adumbrates political and intellectual discourse. It not only buries dissent; it buries the possibility that new ideas may emerge."⁵³ Put another way: "The consequence of the hegemonic process is that the majority of the population is largely unaware of alternative values and alternative reading of history".⁵⁴ "In the absence of visible alternatives, no mass-based opposition emerges and the structure of control is able to continue unchallenged."⁵⁵

52. Acosta, op.cit., p.150.

53. Gaye Tuchman, ed. The TV Establishment: Programming for Power and Profit. Englewood Cliffs, NJ: Prentice-Hall, Inc., 1974, p.39.

54. David L. Sallach, "Class Domination and Ideological Hegemony", in Tuchman, op.cit., p.167.

55. Ibid, p.166.

Hall describes the functioning of the mass media in the cultural sphere as being "crucial to the reproduction of the dominant culture and ideology that it conveys. This is done by providing the social knowledge through which the reality of others is perceived, so that an imaginary coherence is built, in which the contradictory elements are held within the frames of the dominant culture and ideologies. This transforms them into a formidable apparatus for the building of consensus and legitimacy".⁵⁶ More briefly: "the power to define is the power to control"⁵⁷ or, more poetically, from Samuel Beckett:⁵⁸

I am walled around with their vociferations, none will ever know what I am, none will ever hear me say it. I won't say it. I can't say it. I have no language but theirs.

An example of the hegemonic process at work is found in the terms "free flow" and "freedom of information", the carefully chosen keywords for the U.S. position in the DBS controversy. Drawing on the connotations of "free speech" and its long

56. S.Hall, "Culture, the media and the 'ideological effect'" in J.Curran, M.Gurewitsch and J.Woolacott, eds., Mass Communication and Society, London: Arnold, 1977. Quoted by Raquel Salinas and Leena Paldau, "Culture in the Process of Dependent Development: Theoretical Perspectives", p.85, in Schiller and Nordenstreng, op.cit.

57. Herbert I. Schiller, The Mind Managers, Boston: Beacon Press, 1973, p.150. Schiller is quoting Jerry Rubin

58. Quoted by Kathy Ferguson, "Feminism and Bureaucratic Discourse". New Political Science, Spring, 1983, No.11, p.53.

constitutional history in this country, the terms enjoy an almost independent existence, an "absolute, static, indivisible reality"⁵⁹ which thus obscures the source of the "flow", the beneficiary of the "freedom", and the contents and effects of both. "Free flow" is advanced as a pure "good", fetishized and reified for use as a weapon to close off reasoned discussion. Once invoked it suspends all possibilities of an alternative; even to suggest one is to move outside the allowable parameters of discourse. Early use of the term appears to stem from the postwar efforts of the media industry to reestablish its world standing. By 1950 "free flow" had successfully been installed as a fundamental tenet of Unesco's work on broadened flows of information. Only in the 70's has the term been challenged and elaborated to include a recognition of the demands for greater⁶⁰ balance, as described elsewhere in this paper.

In accomplishing or deepening the hegemonic sway of the dominant group in a society, few new technologies have proved

59. Edward W. Ploman, "Satellite Broadcasting, National Sovereignty, and Free Flow of Information", in Nordenstreng and Schiller, op.cit. p.162

60. "Free flow" is of course only one of the terms to have become weapons in the information and radio wars. The 1985 "Report of the U.S. Advisory Commission on Public Diplomacy" (Washington, D.C. p.16) calls the problem "semantic corruption" and decries "the misuse by communist propagandists of such positive words as 'peace', 'democratic', 'liberation' and 'people', to mention only the most obvious...". The Commission reports that the USIA has prepared a "lexicon of Marxist-Leninist terminology" and sent it to all overseas posts so personnel may be forewarned.

more effective than the electronic broadcasting media. Their fetish status and unique quality of "speaking" on behalf of those who control the broadcasting system is described in this striking
61
Third World perspective:

...radio enters the home or accompanies the listener anywhere as a form of property, ever smaller thanks to the transistor. It is, moreover, an object that talks, that transforms its bearer into a permanent listener. The philosophy of consumption is thus fused with that of the mass media and takes the form of a fetish object which, dressed in the latest style, is presented and sold as the finished product of a system; a product which in turn, speaks in defense of that system. As could be expected, the culmination of the mass media is television, which synthesizes the main qualities of the film and radio (sound, image, color, words, music). The television set has become the new ritual magic center of the home.

The fetish metaphor was much elaborated by Marx in his analysis of the capitalist mode of production. He used it effectively to discover underlying assumptions, long hidden by revered myths. Succeeding generations of progressive thinkers have identified the fetishizing technique in various representations of capitalist activities, including mass communications. Armand Mattelart, speaking of communications in
62
Chile in 1971, noted:

61. Acosta, op.cit., p.150.

62. Armand Mattelart, "Communication Ideology and Class Practice". In Mattelart and Siegelau, eds., op.cit., p.115.

Every fetish reflects an entire rational corpus of mechanisms whose purpose is to obscure the social relations of production prevailing in a given society. [In capitalist society] the fetish of communications conceals the repressive and manipulative power of the dominant technology of dissemination (a veritable new productive force [author's emphasis] and characterizes it as a force for liberation and happiness. It is in this guise that it is presented to the dominated.

Mattelart described what he called the "fetishization" process which occurs as "living people are metamorphosed into 'things' (factors in production), and things are given life. Thus money 'works', capital 'produces'. In the same way, the media 'act'."

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Turning to the direct broadcast satellite and its use on a global scale it may be seen that such mass communications as are likely to be carried by direct broadcast satellite from the United States will reflect established mass media patterns and will thus become extensions and reinforcements of the hegemonic control now exercised within the United States, adjusted of course for world audiences. The organization and ownership of the giant broadcasting and communications corporations based in the U.S. and the imbalance in the flow of their transmissions across

63. Ibid.

international borders, including news, radio and television broadcasting, has been the focus of a number of studies including the work of Herbert Schiller,⁶⁴ Tapio Varis,⁶⁵ Alan Wells,⁶⁶ Richard Bunce,⁶⁷ Jeremy Tunstall,⁶⁸ Anthony Smith⁶⁹ and S.B.O.Gutto.⁷⁰ Their findings make it clear that today's transnational conglomerates have spread a world net of consumer advertising, film, radio broadcasting and television, infused with the subtle hegemonic suasion which compels conformity without consciousness. The road which they are following has not been smooth, as has been shown in earlier chapters of this study. Subsistence conditions among vast populations of the world have sometimes provided barren ground for the spread of western ideology; sometimes the ideology has itself been wrongly interpreted, taking on the shape of new demands; in other cases

64. Mass Communication and American Empire, op.cit., The Mind Managers, op.cit., Communication and Cultural Domination, op.cit., Who Knows: Information in the Age of the Fortune 500, op.cit., and, with Nordenstreng, National Sovereignty and International Communication, op.cit.

65. "Television Traffic: a One-Way Street", Report No.71 of UNESCO series on Mass Communications. NY:Unesco, 1972.

66. Picture Tube Imperialism: A Case Study of Television, Maryknoll, NY:Orbis Books, 1972.

67. Television in the Corporate Interest. NY:Praeger, 1976.

68. The Media are American. New York:Columbia Univ. Press, 1977.

69. The Geopolitics of Information: How Western Culture Dominates the World. NY:Oxford Univ. Press, 1980.

70. "Captivity of the Press", Monthly Review, Vol.34, No.8, Jan.1983.

the modernizing process itself has served to engender new or alternative ideologies. Nor can it be ignored that during this century a third of the world's population has come to be living and participating in systems that are formulating social and economic systems which differ from and are competitive with the West. Whether these developments represent class formation and class consciousness as emergent from material and social production processes, and if so, whether they can be subverted or redirected by persuasion and the calculated distribution of benefits or even by force, are questions which are in process, and the control of world information networks is one of the essential factors affecting the outcome. Thus if technical knowledge and international regulatory problems can be contained it is to be expected that the direct broadcast satellite on an international scale will become one more avenue for capitalist development.

Class Conflict and Resistance

The foregoing paragraphs have dealt with how the mode of production is determinant in a specific society and with the relationship between the mode of production and the cultural life of that society, including the state. It has also sketched out the concept of class and examined the relationship between class formation and hegemonic forces. It is here intended to look more closely at the theory of class conflict or resistance. It is a condition which is observable throughout history but one which becomes more apparent and fully developed during the dominance of the capitalist mode of production when the difference between classes is a requisite condition for production. Simply stated, the owners of the means of production in general comprise a class, and those who work but do not own the means of production comprise another. This division and the antagonism between the two classes may be observed at critical points in history, as dominated or oppressed groups become aware of their conditions of existence and in various ways seek to transform them.

Simple as it may appear, this formulation gains depth and complexity when it is understood from a theoretical standpoint which holds that what appear to be freestanding separate entities are actually interrelated and interdependent: one defines the other, and to such a degree that they form a kind of conflictual unity. Hegel's famous formulation of this dialectic in terms of

the master-slave relationship was to provide a basis for its later unfolding and use by Marx and Marxists as a way of understanding social development.

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Without venturing into the philosophical and psychological controversies which still envelop the Hegelian contradiction, it will suffice here to point to the usefulness of the notion of how the slave and master in their unending search for mutual recognition engage each other in struggle to undermine or negate their accepted roles and in the process achieve different conditions of existence, including self-understanding and self-determination. It is this idea, that domination sows the seeds of its own resistance, or that servitude breeds self awareness and conditions for its own transformation, which has won such wide acknowledgement and in fact has many times in history proved its validity.

In the present study of how global controls are to be imposed on new forms of mass information and persuasion, the imperatives of conflict and resistance may be observed in a number of dimensions. Consider for example the relationship between the U.S. and the USSR. The hostility against the USSR

71. Two useful explications of how Hegel perceived the master-slave relationship in his Phenomenology of Mind are to be found in Charles Taylor, Hegel, pp.152-157. Cambridge; Cambridge University Press, 1975; and Frederick Copleston, S.J. A History of Philosophy, Vol. VII, Part I, pp.221-225. Garden City, NY: Doubleday, 1963.

which is expressed by the leaders of the United States and fostered successfully (largely through the mass media) among the people of the United States is generally justified in terms of such issues as the history of Stalinism, the absence of formal democracy, discrimination against Soviet Jews, ongoing state prohibitions against subversion and anti-Sovietism within the Soviet Union, the alleged pro-revolutionary proselytizing conducted by the Soviet Union in other parts of the world, even the allegation that the revolution of 1917 has been betrayed. Seldom mentioned as a basis for opposition to the USSR is the fundamentally different mode of production which it has adopted, a system which functions without the necessary components of private capitalist enterprise and in direct contradiction to the capitalist ideology. Whether or not the Soviet Union is succeeding as a "workers' state" (the arguments would take us too far from the immediate issue), the simple fact of its existence may be seen as providing the underside, a non-capitalist side, of the present class conflict. It is true that when developed by Marx and others in the nineteenth century, class struggle was generally perceived as occurring not between nations but between classes, i.e. the industrial capitalists versus the industrialized workers wherever in capitalist societies they might find themselves. However the lens has widened in the intervening century, bringing into focus more and more of the world's peoples and their systems of production. Accordingly it is possible and evocative to perceive the present U.S./USSR

"super-power" struggle as fundamentally a conflict between a capitalist-dominated economy and a non-capitalist-dominated economy. This is not to minimize all the other documented differences, including different levels of ideological control and of economic and political development. But it is necessary to bring out this core difference, so ubiquitously ignored in contemporary analyses. In such a perspective, which sees the U.S. hostility toward the USSR as rooted in class struggle, the intensity of the radio and television war becomes more understandable. At stake are fundamental forms of social and economic organization, the very modes of production, each with its reflected values, benefits-distribution systems, and methods of social control.

From another angle, the conflict between classes may be seen to be at work in the relationship between the United States and the Third World, where steady increases in information and awareness lead to eruptions of guerilla warfare and other forms of rebellion. Marx's critique of capitalism, itself drawing on the work of many earlier writers, Ricardo and Smith among them, served to stimulate many generations of radical analysis, from Lenin, Luxemburg and Hilferding to Baran, Amin, Wallerstein, Frank and many others both in the West and in the institutes and universities of the USSR and other socialist countries. Drawing on Marx's outline of the preconditions necessary for capitalist production -- raw materials, a system of private property, "free"

workers willing to sell their labor, and markets -- these later writings have deepened the critique by adapting it to observable changes in advanced capitalist production, for example the intensifying concentration of industry, the vast technological advances in productive methods, the enormous expansion of markets, the transnational division of labor, and with all these, a far more powerful institutional component, the state, providing the force as needed to maintain and control markets and raw materials. Within the school of Western Marxism there has developed in recent decades a perspective that sees late twentieth century capitalism as a world system, made up of "core or advanced capitalist" societies, "periphery or pre-capitalist agricultural/extractive" societies and the "semi-periphery intermediary societies".⁷² In this perspective the core societies are seen as extracting surplus value from the periphery, thus keeping them in a state of underdevelopment. The semi-periphery societies also yield up surplus value to the core, and in addition they serve to buffer it from the less developed states.

Whether this trend toward a world market with the advanced core societies as the chief beneficiaries be called imperialism or, less pejoratively, the fuller development of the wealth of nations, it is clearly the pattern which modern capitalism must -----

72. Vincent Mosco and Andrew Herman, "Radical Social Theory and the Communications Revolution" op.cit., p.3.

follow, in order to assure a continuing increase in return on investment, without which capitalism cannot survive. Fredric Jameson sees the present period as constituting "the purest form of capital yet to have emerged, a prodigious expansion of capital into hitherto uncommodified areas" -- including even the penetration and colonization of the unconscious via the rise of media and advertising.⁷³ The United States, as the most powerful of the core societies, has moved into the position of protector of capitalist expansion, an activity it carries out by insisting on the market model as the sine qua non for any developing country which wishes to avoid military advisers, CIA penetration, radio jamming, loan defaults, currency destabilization or other forms of intervention. At the same time it has led the drive to incorporate less developed societies into the capitalist market structure, including the accelerating use of third world workers for factory and field production as needed. It is the often unrecorded resistance to these processes that makes up the underside, the other half, of the whole. When international mass communication is studied within this framework of domination/resistance as a unity, the DBS option is revealed in

73. Fredric Jameson, "Post-modernism, or the Cultural Logic of Late Capitalism". New Left Review, No. 146, Jul-Aug, 1984. Borrowing from Ernest Mandel, Jameson posits three successive stages of capitalism: first, market, then monopoly, then multinational, each corresponding to specific stages of the technological revolutions since 1848: machine production by machines; then machine production of electric and combustion motors; and, since the 1940's, the machine production of electronic and nuclear-powered apparatuses.

its full political dimensions.

Vincent Mosco and Andrew Herman have examined aspects of this issue. They cite three communications infrastructures , the submarine cable, the earth-orbiting satellite, and the computer, as primary examples of core society technology used to achieve and shore up imperialist expansion. When linked to more traditional mass media (advertising, newspapers, radio, television) these forces become "not merely the generator of a vast accumulation process, but also instruments of world system legitimation".⁷⁴ General David Sarnoff of RCA provided an astonishingly frank summary of the role of communications:

"Supremacy in the domain of communications, which is one of the keys to the domination of space, translates today into political, military, economic and social supremacy over all the nations of the world".⁷⁵ His son and successor, Robert, was more restrained, predicting that "information will become a basic commodity equivalent to energy

74. Mosco and Herman, ibid, p.6.

75. Sarnoff was speaking to a 1965 Conference of the American Legion, Washington, DC. Quoted in Armand Mattelart, "Mass Communications in the Third World: Theory and Practice". Latin American Perspectives, Vol.V, No.1, Winter, 1978, p.14.

in the world economy" and "will function as a form of currency in
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world trade, convertible into goods and services everywhere".

In considering some late twentieth century manifestations of class conflict we have up to this point proposed that such conflicts may be perceived to be working themselves out in the East/West confrontation between two profoundly different economic and social systems, and in the intensifying face-downs between the U.S. and the growing ranks of the non-aligned nations. Conflict and contradiction may also be discerned as arising within the cultural sphere where the weapons are the words and technology of mass communications themselves and where the boundaries of nation-states are less significant. Here Gramsci's formulations are particularly relevant as he identifies the different forms of resistance which confront the hegemonic imposition of consent. While the working class (the "subaltern group") is constantly being subordinated "to the active hegemony of the directive and dominant group", Gramsci emphasizes how its own efforts at autonomy are constantly being "reborn in other forms, as parties,

76. Herbert I. Schiller, Mass Communication and American Empire. New York: Augustus M. Kelley Publ., 1969, p. 7. In a 1973 speech Sarnoff estimated that satisfactory resolution of the controversy over communications satellites -- which he envisaged to be "the commitment of all nations to the eventual goal of unrestricted programming" -- would offer "rich rewards", including "billions of dollars in fresh opportunities for international trade". From "Freedom to Communicate", speech by Robert W. Sarnoff. Chicago: RCA, 1973

77. Gramsci, op.cit., p. 54.

trade unions, cultural associations". In mainstream studies of mass communications these possibilities and manifestations have received small attention.

Brecht was among the first to identify the resistance potential of radio. His 1927 "proposals to a Radio Director" demanded the airing of parliament sessions, of courtrooms, of unrehearsed interviews and debates. In 1932 he outlined the real purpose of radio: "non seulement que le public soit eduque, mais qu'il soit lui-meme educateur" (Bertolt Brecht, "Theorie de la Radio").⁷⁸ He identified one of the fundamental contradictions of the new apparatus of radio -- that its owners needed people like him to replenish their stock-in-trade, the very stuff which was⁷⁹ to be sent out over the airwaves:

Mais ce n'est pas du tout notre tache de renouveler par des innovations sur la base de l'ordre social existant ces institutions ideologiques. Nous devons plutot par nos innovations ebranler leur base: pour les innovations, contre le renouvellement!

Uses of the electronic media in the cause of popular resistance, even revolution, was described by Frantz Fanon in his⁸⁰ account of the Algerians' war against the French. Fanon is

78. Sur le Cinema. Paris: l'Arche, 1970.

79. Ibid.

80. A Dying Colonialism. Chapter 2, "This is the Voice of Algeria". New York: Grove Press, 1965.

aware of the interrelatedness of the oppressor and the oppressed, and seeks to show "that the challenging of the very principle of foreign domination brings about essential mutations in the consciousness of the colonized, in the manner in which he perceives the colonizer, in his human status in the world." ⁸¹ It was that change in consciousness which led to the Algerians' ever wider use of the clandestine source of news, opposing "the enemy news with his own news". ⁸² ⁸³ Fanon continues:

In making of the radio a primary means of resisting the increasingly overwhelming psychological and military pressures of the occupant, Algerian society made an autonomous decision to embrace the new technique and thus tune itself in on the new signaling systems brought into being by the revolution.

The Algerian experience has been repeated a number of times as the decolonizing of Africa and Latin America has ⁸⁴ accelerated. At the same time the immense electronic technologies of the dominant states have been further developed in order to catch up to and capture clandestine initiatives. In his study of international broadcasting Julian Hale offers a

81. Op.cit., p.69.

82. Op.cit., p.76.

83. Op.cit., p.84.

84. See for example Alexander Sibeko, "The Underground Voice", an account of the clandestine radio of the African National Congress. In Armand Mattelart and Seth Siegelaub, Communication and Class Struggle, Vol.2. New York: International General, 1983.

report and analysis of the turbulent contemporary world of clandestine radio, which he estimated in 1975 to be about five per cent of the output "in the worldwide communications battle".⁸⁴ One aspect of radio as a subversive instrumentality which has not been realized, except in Dick Tracy and specialized mobile units, is its possibility as transmitter as well as receiver. Enzensberger points out that "every transistor radio is, by the nature of its construction, at the same time a potential transmitter; it can interact with other receivers by circuit reversal"...a development which he argues "is consciously prevented for understandable political reasons".⁸⁵

Most of the foregoing of course has reflected possibilities of radio, not taking into account the new technological advance represented by the satellite and its direct broadcast capability. With this gigantic leap into communicative power, the advanced industrialized nations gained an edge over the resistors.⁸⁶ However Schiller speculates that the ongoing class conflict of our time is today reaching new levels of intensity specifically in the communications-cultural sphere, as the dominating class uses its "enormously expanded and totally -----

84. Julian Hale, Radio Power: Propaganda and International Broadcasting. Philadelphia: Temple University Press. 1975.

85. Hans Marcus Enzensberger, "Constituents of a Theory of the Media". New Left Review, No. 64, Nov-Dec, 1970, p. 15.

86. Schiller, Communication and Cultural Domination. White Plains: International Arts and Sciences Press, Inc. 1975, p. 68.

penetrative informational apparatus" to maintain its longstanding privilege. Schiller in fact proposes that the advent of space communications has heightened the conflict, pointing to how the new technology has "spotlighted the overall issues of structural control, financial and technological dependency, and the dramatic side of information penetration from the heavens".⁸⁷

In an analysis of the relationship between culture and dependent development, Salinas and Paldan outline some possible conditioners of resistance, for example the level of organizational experience that may be acquired by the working class as it undergoes industrialization, or the degree of polarization occurring within newly incorporated societies, a tendency which heightens the political alignments of both the dominant "internationalized sector", and the excluded sector. A third possible source of alternative or resistant ideologies is seen to be in the cultural industry itself, where those who create the cultural products may "escape the limits and models imposed both by the metropolis and the local dominant culture by transforming their own practices into the expression of the lived reality of the dominated".⁸⁸ This suggestion, that the person hired to create cultural products for the dominant class may

87. Schiller, op.cit. p.76.

88. Raquel Salinas and Leena Paldan. "Culture in the Process of Dependent Development: Theoretical Perspectives". In Nordenstreng and Schiller, op.cit. p.93.

himself become proletarianized, echoes Marx's provocative equation between the teacher in the "learning factory" and the wage-laborer in the real factory.⁹⁰ Finally, they remind us of the new audience toward whom the media producers must direct their work, often without cognizance of its "multiple realities" and "multiple histories of accumulated significations whose importance to the interpretation of the media messages cannot be neglected".⁹¹

In the present struggle over communication policies, Salinas and Poldan, like others, recognize the ambiguous role of the state, which at the same time that it may be oppositional to external domination often proves willing to align with new forms of internal domination. Nevertheless they argue that at the present level of the conflict the demands of resisting states "contribute to the steadily weakening hegemony of the dominating classes in the cultural-ideological field".⁹²

In summary it may be said that once the liberatory potential of mass media is opened up for examination in the context of

90. Karl Marx, Capital, Vol.1. New York: Pelican, 1976, p.1048. Cited in Garnham, op.cit. p.141. A striking example of this process was illustrated in Charlayne Hunter-Gault's report from South Africa on Public Broadcasting's McNeil-Lehrer Show, Tuesday, Oct.1, 1985 as she interviewed a Black African advertising executive working for a large, presumably U.S.-based agency in Johannesburg, and going home each night to the "lived reality" of Soweto.

91. Salinas and Poldan, op.cit. p.93.

92. Ibid, p.97.

dialectical relationships, the present conflict over world information flows and the technology of the direct broadcast satellite takes on a new significance. Along with its enormous economic importance, as a technique for speeding the movement and widening the markets of capital, it is also a new and superior channel for responding to political needs to contain the rise of liberation movements or, conversely, to strengthen the energies of resistance.

For here it should be added that when Hegel described his master/slave model he posited no certain outcome. The dialectical engagement could lead to death, to new forms of subjugation, or to social transformation. A better understanding of the conflict between world forces which today is manifest may serve to shape our participation in the process.

CHAPTER VII -- TECHNOLOGY UPDATE AND SOME CONCLUDING OBSERVATIONS

The technology and manufacture of electronic telecommunications have taken on awesome dimensions. Further, the meshing of the radio satellite with computer technology is resulting in incredible power, speed and a constantly growing variety of applications. Motivation for these developments comes primarily from the needs of world capitalist markets and the requirements of military research and procurement, but the technological progress is closely observed and endorsed by various non-western leaders and many others thinking to use telecommunications directly to improve standards of life and culture. It is a dialectical interaction between technological development and socio-historical determinants with far-reaching implications for the world of the future.

As an update, it may be useful to review some of the most recent technological developments (without attempting to provide full technical explanations) and to suggest how they may be affecting present U.S. policies and world politics with regard to the development and utilization of communication by satellite, including DBS.

To be borne in mind in the following discussion is the distinction which has been accepted between what is called Fixed

Satellite Service and Broadcast Satellite Service, also called DBS. The former has been in existence since the midsixties when the ITU first designated segments of the radio spectrum in the very high frequency range for its experimental use. The determining characteristic of the Fixed Service is that it functions between two predetermined points -- for example from a television broadcasting company's transmitter via satellite beam to a cable company's receiving dish antenna for subsequent distribution to individual subscribers. Between different nations, such Fixed Satellite Service is arranged for in advance and coordinated between the sending entity and receiving entity. For example, in Belgium a television viewer may select programs from Belgium, or from Italy, France, West Germany, Luxembourg, or the Netherlands -- all such foreign services being distributed to his set by the Belgian television authority after being transmitted into the country through agreement between the PTT's (Post, Telephone and Telegraph Services) of each country. In contrast to the Fixed Satellite Service, DBS television signals are broadcast for direct reception by individual receiving dish antennas, "the general public". No DBS systems for television have yet been established, although many individuals have set up home dish antennas to capture signals from the sky which are intended for fixed point earth receiving stations. In the discussion that follows the emphasis is on developments relevant for DBS although it is clear that the two kinds of satellite broadcasting tend to overlap.

One notable trend is in the direction of ever smaller, less costly earth station "dish antennas", made possible as knowledge and experience is gained in the utilization of the ultra high "Ku-band" frequency range now being used for most space satellite radio and television transmissions (between 11 and 13 gigaHertz - a gigaHertz being a billion waves per second). It is possible today to receive signals with a dish less than two feet in diameter and it may be expected that the lower cost and size will make antenna acquisition possible for an ever larger portion of the world's population.

Ways are also being found to overcome the longstanding language barrier which might have affected internal applications of DBS in a country where the population speaks different languages, or inhibited broadcasting by external sources in search of viewers in foreign countries. Through the combination of analog and digital transmissions (transmitting the video in the analog mode as presently, but using the digital mode for voice transmission), the video may be accompanied by several different languages simultaneously, one of which may be selected by the viewer.

Related to the development of the digital approach for satellite television is the emergence of what is called "enhanced" or "high definition" television, a technique which results in a superior quality of television picture, comparable

in quality to film. These kinds of video transmissions were not possible prior to the use of the extremely high microwave frequencies (in the gigahertz range). To receive "high definition" signals however requires a different type of television receiving set from those now in use. Economic and marketing forces are building toward worldwide agreement on a single standard for this new technological breakthrough in improved video quality.¹ In this context it should be recalled that when standards were set for present-day television, different (higher definition) standards were adopted in Western and Eastern Europe from those adopted in the United States and Canada, with the result that European television sets cannot receive U.S. signals. What is significant here is the trend toward a single worldwide standard, which if adopted would mean that international direct television broadcast by satellite would not face barriers to reception because of incompatible signals.

Significant too is the rapid evolution of sound (radio) broadcasting via DBS, directed to radio sets, including automobile ("mobile") receivers. Segments of the spectrum have

1. Considerable work on this new technology, which involves a digital system of signal projection and processing, has been done in the Soviet Union. The "high definition" TV is possible as a result of transmitting signals via digital code -- the "native tongue of the computer" -- rather than via the traditional continuous electrical signal (analog system). The television screen in effect becomes the display component of a minicomputer. A popular account appears in Igor Rosselevich, "Digital TV; a Revolution in Mass Media", Soviet Life, Oct. 1985.

been designated by action of the ITU for experiments in direct mobile broadcasting. However, to receive such satellite transmissions, new radios have to be acquired, or frequency converters have to be purchased in order that conventional radio sets may be adapted to the new, much higher wavelengths. Given the shortage of prime slots in the geo-stationary orbit, it seems likely that radio DBS -- because it is cheaper to put into operation and requires much less precious bandwidth space than television -- will move forward more rapidly than television DBS. Its development must be in accord with ITU rules and regulations, if existing international law is to be observed.

That there is considerable demand for the newly feasible uses of radio-DBS for mobile receivers (e.g. briefcase telephones, or two-way phones on boats, trucks, trains etc.) has been already demonstrated. One authority comments: "The domestic mobile satellite proposals in the United States and Canada expect about 200,000 users in the two countries by the end of the century. They [consumers of the service] would be offered nationwide mobile radio telephone, voice and digital dispatch, interactive data, and perhaps surveillance and other services."² While here projected mainly for commercial use, this two-way form of satellite radio communication makes possible an as yet

2. Olof Lundberg, Director General of INMARSAT -- International Maritime Satellite Organization, London. In "Mobile Communications in the World Market". Telephony. Chicago. July 29, 1985.

unassessed mode for "talking back" or "talking around" the traditional one-way form of radio broadcasting, not unlike Citizen Band radio.

Consideration must also be given to the know-how that is being acquired by the various existing, if unofficial, international applications of DBS, worked out with available technology and providing unique opportunities to its U.S. participants to view the television fare of the Soviet Union. In the U.S. some examples include the projects at USIA, Columbia University, and Vassar College, which are now monitoring Soviet "spillover" television by tracking its satellites by computer and capturing signals meant for domestic Soviet consumption. In the USSR a young electronics amateur has done something similar with the USIA's Worldnet program which is beamed by satellite to the U.S. Embassy in Moscow. These projects must require some tricky adaptations. At Vassar College the Russian Department uses Japanese television sets which are manufactured to receive both the European type television signals, including the USSR system, and the type in use in the United States. The spreading awareness of what is available in the sky is also evidenced by the thousands of dish-antennas visible on rooftops and in farmyards in the U.S. and Canada which snare signals being broadcast not as

3. The USSR communications satellites which are being tracked do not use the geostationary orbit but rather circle the earth in an elliptical orbit designed to accommodate the northern landmass and 11 time zones of that country.

DBS but as point-to-point Fixed Services between network distributors and cable companies or other types of local earth stations.⁴

On the negative side public concern has surfaced over the possibility that concentrations of very large commercial satellite communication dish antennas, as in Vernon, N.J., may be emitting harmful "spillover" radiation microwaves and causing abnormally high birth defects and miscarriages.⁵ It is a warning reminder of the many unknown dimensions of microwave development.

While there are many indications that direct television and radio broadcast by satellite is increasingly feasible, notice should also be taken of the possible implications of other new modes of expediting telecommunications. These include the light-transmitted fiber optic system which promises terrestrial, static-free telecommunication on a mass scale and might thus be a less costly successor, or supplement, to the communications

4. One amateur expert enthusiastically reports of tuning in via his 10-foot dish antenna to the audio(radio) signals emanating from satellite transponders (called the non-video services of communications satellites or "sub-carriers of video channels"). Classical music came across with "pristine clarity" -- "all of which makes me long even more for International Radio by satellite as an alternative or supplement to High Frequency broadcasting". From "Radio Equipment Forum" by Loren Cox Jr. In Review of International Broadcasting No. 104.

5. "U.S. is Studying Effects of Antennas' Radiation". New York Times, July 24, 1985, p.B2.

satellite. Another frontline of research is the work being done in both the U.S. and the USSR on ionospheric modification. Such modification would make the ionosphere function as a reflector of the ultra high frequency waves that carry television signals, a process which would appear to duplicate the work of space satellites at far lower cost.

Closely related to the growing range of technological developments is the political and economic conflict over how they are to be distributed and utilized, especially in the implementation of transborder broadcasting. While the opportunities, arguments and competitions transcend national boundaries it will be useful in this summary to consider first the new problems confronting the economic and political system of the United States, and following that, to review their unfolding in the larger scene of world politics and the United Nations.

Within the U.S. there is continuing commercial interest in the possible utilization of DBS as an internal, domestic enterprise although its low profitability and high cost compared with existing point-to-point satellite and terrestrial broadcasting methods make it less attractive than it might have seemed early on. In addition, the proliferation of pay-tv via cable has made it more difficult for the established networks to

deliver large audiences to advertisers, whether by DBS or by conventional means, a development which has led them to enter the cable/satellite business themselves. The use of scrambled signals, with subscription payments to the broadcaster for decoders, may be expected to provide a new source of profits in the cable field. A point of contention between the major television network corporations on the one hand and their emerging competitors on the other is the former's interest in developing use of the very high frequency bands (which satellite broadcasting must use) in such a way as to accomplish the improved television described as HDTV -- "high density television"(see above). The alternative to HDTV would presumably be a less costly distribution of conventional (lower density) television signals possibly via DBS thus reaching many more consumers, including all those who are now out of range of cable service.

Another form of intercorporate competition is taking shape between -- on the one hand -- those interests (including the promoters of "free flow") which see opportunities for making capital gains in the Third World by marketing cultural programs and advertising via direct broadcast satellite programming emanating from the United States, and -- on the other hand -- those interests like Hughes Aircraft and Ford Aerospace which see opportunities for selling huge national telecommunications and DBS systems directly to Third World countries which would then

operate such systems independently (and presumably be less vulnerable to penetration). This argument has taken on concrete dimensions in the form of sharp demands by the big telecommunications systems manufacturers for direct U.S. loans to Third World countries which would then buy such systems from U.S. companies, a not unprecedented invocation of the state as facilitator of the business enterprise.

Conflict between different forms of capital is also observable in the present situation of Intelsat. While it is still dominated by the quasi-private U.S. corporation, Comsat, Intelsat now reports to a stockholder membership of 110 nation-states, which jointly own 16 geostationary satellite communications, which carry two thirds of all international telecommunications traffic. Under these circumstances Intelsat has understandably taken on the color of internationalism, an alignment that sometimes puts it in opposition to U.S. capitalist expansion. Up to now Intelsat has been the major carrier of global telecommunication network services, facing competition only from its much smaller counterpart Interaputnik which links countries of the socialist world. But recently it has been successfully targeted for competition from U.S.-based newcomer entrepreneurs who promise lower cost service for the ever growing communications demands of multinational corporations. Opposing this development, Intelsat leadership pointed out that loss of its heaviest users might require it to charge higher rates to its

remaining customers, precisely the countries least able to pay. At one point in the campaign Intelsat representatives were reported to have met in Moscow with Intersputnik representatives (March, 1985) presumably thinking about how to avoid the situation which would occur should higher Intelsat tariffs cause its members to consider joining Intersputnik. Unlikely as it seems, a merger of the two systems cannot be ruled out.⁶

Intelsat also operates coordinated domestic telecommunications systems for some 24 of its member states and in that activity it perceives a threat in the trend toward independent domestic (Brazil, Indonesia) and regional (Arabsat) satellite systems. As noted above the selling of such large systems is of great importance to American satellite and telecommunications conglomerates.

Another issue for the development of space telecommunications in the United States is the often ignored matter of financing. Like the railroad, trucking and airplane industries, space exploitation has depended on vast outlays of government financing, in effect the contribution of the taxpaying public. No private enterprise substitute has been found for the research gains, technological prowess and almost limitless

6. Both Intelsat and Intersputnik were accorded "permanent observer status" at the 1985 session of COPUOS, the UN Committee on the Peaceful Uses of Outer Space, where the issues relating to regulation of DBS were debated for so long.

resources of the Defense Department and NASA. The relationship which this interdependence engenders between the public and private sectors can be a source of tension. One example may be seen in the contradictions arising over information flow, when national defense interests are cited by the Defense Department as justification for restricting commercial sales overseas or for restraining international scientific exchange programs conducted by researchers working with private corporations or universities.

Another public/private strain point may be seen in the ideological emphasis on unfettered private enterprise as against the reality of citizen-paid tax subsidies, which now ironically will be used to accumulate profits rather than for widespread non-commercial low-cost domestic distribution of the benefits of satellite communication.

While internal use of the potential of DBS is unlikely to occur soon in the United States, its use for external

7. The obvious contradiction between "free flow of information" policies and restrictions on the flow of scientific information is noted here only in passing. In fact the whole question of "flow" is fraught with contradiction. Consider how, at the same time that the U.S. government acts to cut off technical and scientific information flows, former bank president and State Department adviser Walter B. Wriston decries the rise of barriers set by other governments against data processing facilities and outgoing transfers of information, which he argues they wrongly seek to tax or regulate or control. (Walter B. Wriston, quoted in the Chronicle of International Communication. Vol. VI, No. 1. January-February, 1985.)

broadcasting is attractive for the particular needs of commerce. For example, tobacco companies, longtime practitioners of marketing expertise, have increasingly found they can successfully advertise their product in Third World countries to make up for shrinking U.S. markets.⁸ At the point that DBS is able to deliver listeners more cheaply than other communication modes (i.e. through foreign-based advertising agencies using indigenous communication networks, or through sales of films, television series and magazines, or via news distribution agencies), it will become irresistible to advertisers and can be expected to be used as shortwave radio was during the early 1940's when, with FCC authorization, radio sought to persuade Latin American listeners to buy Camel cigarettes and Adam hats, and to come to the Waldorf Astoria.⁹

The most immediate prospect for both radio and television DBS development is clearly to be found in the U.S. government's longstanding program of international broadcasting. As is known,

8. Wall Street Journal, cited in The Interdependent, New York:UNA-USA, July/August 1985, Vol.II, No.4.

9. Charles J. Rolo, Radio Goes to War: the "Fourth Front". New York:G.P.Putnam's Sons.1942. At present there are five non-government shortwave stations broadcasting internationally from the U.S., all of them religious. The FCC has recently authorized international broadcasting by a commercial shortwave station, NDXE(pronounced In Dixie), with transmitters located in Alabama. Scheduled to be on the air in spring, 1986, it is expected that it will carry advertising by multinationals like CocaCola as well as tobacco companies. The Auburn Bulletin, Wed, Feb.13, 1985, p.A-2.

the USIA is currently undergoing a tremendous infusion of new funding as part of a projected \$1.3 billion global improvement program. Expansion of its coverage includes plans to resume shortwave radio broadcasts to Western Europe, presumably to counter the unsympathetic treatment accorded the U.S. and NATO by the European peace movement. Also under consideration are ways to make the VOA radio message available within the U.S., which has up to now been forbidden by law. The possibility of extending USIA's global reach via radio DBS has been under consideration for at least five years; the House of Representatives held hearings on the matter in 1981, as already reported in this study. The committee report endorsed DBS as likely to provide VOA, RFE and RL with bigger audiences, better signal quality, freedom from "jamming", and reduced vulnerability for its overseas transmitters. Currently NASA is conducting a \$1.5 million study to determine in what ways DBS could be used as part of the administration's commitment to upgrade the Voice of America. One continuing problem for radio DBS is the transition from conventional shortwave radios (it is estimated that one billion adults in the world have access to short wave radio) to radios adapted in such a way that they can receive signals in the high frequencies used by space satellite transmissions.

10. One possibility would be to distribute free equipment in targeted areas, as was done during the Vietnam war with transistor radios, in order to inform and persuade the population.

Another is the relocation which would be necessary for farflung overseas personnel -- no small problem in the case of the large number of veteran expatriate Russians and East Europeans who make up the fiery anti-communist contingent at the Munich headquarters of RFE/RL. Another problem is of course the international law and regulations of the ITU, although these affect radio DBS only to the extent of controlling which segments of the already overcrowded broadcasting spectrum may be used. Until the matter is resolved the USIA is continuing to negotiate for, acquire, and equip large, heavily guarded terrestrial transmitters (Costa Rica, Puerto Rico, Belize, Sri Lanka, Morocco, Thailand, Botswana¹¹ and Israel among others).

VOA's move into direct television broadcasting via satellite is confronting different problems from those raised by the radio DBS transition. The U.S. Commission on Public Diplomacy, a body named by President Reagan to oversee and advance the work of USIA, recommended in its 1985 annual report that the USIA should "as a high priority" and "with the support of other government agencies, plan for the establishment of a worldwide system of television broadcasting to enable U.S. leaders to speak directly

11. A hint as to the complexity of getting locations for transmitters comes from a report heard on Radio KOL Israel on Sept. 1, 1985, stating that the Israeli government had decided on three conditions for approving the operation of a VOA relay: 1) no anti-Soviet content; 2) Asiatic beam--no transmissions to European USSR; and 3) no Yiddish or Hebrew. Reported in Review of International Broadcasting#102,p.18.

to audiences in every region of the world". This to be accomplished with "innovative use of the latest satellite communications technology" and at least "within the next decade"¹². According to the Report a beginning has been made in the form of the VOA-USIA television broadcasts (presumably the Worldnet programs) which it says have up to now been going through the PTT's of the receiving countries, a procedure that appears to skirt the prior consent issue. However in 1985 the USIA will "place dish antennas on the roofs of our embassies" since direct transmissions "will result in considerable savings"¹³.

A 1983 MIT study of the feasibility of using DBS for VOA international broadcasting, commissioned by VOA and authored by Ithiel de Sola Pool among others, suggested that the U.S. should establish an international commercial satellite "common carrier" which would rent out broadcasting channels for DBS television broadcasts from different countries. The report advised that millions of listeners would be willing to invest in the new receivers which would be required. As for the Voice's traditional function: "The American view (via VOA) will come out well in such a forum, as it always has."¹⁴

12. 1985 Report of the United States Advisory Commission on Public Diplomacy. Washington, D.C. Op.cit. pp.17-19.

13. Ibid, p.17.

14. Chronicle of International Communication. Vol.V, No.7, p.6.

The 1985 Report of the Commission on Public Diplomacy alluded briefly to legal problems that confront the "goal of a worldwide direct broadcasting service". Among these are of course the ITU regulations and the "prior consent" position of the majority of the nations in the United Nations. As we know, the United States does not regard these limitations as applicable to the intended use of DBS for television. However, that Washington policymakers regard the question seriously may be seen by the fact that the State Department recently commissioned a detailed analysis of the pros and cons of continued U.S.

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participation in the ITU. The authors of the report recommend against withdrawal, citing how it would close the U.S. off from avenues to new markets for sales of technologies and from direct participation in training programs of Third World technicians, as well as the general risk of "spectrum anarchy". However the 1984 withdrawal of the United States from Unesco, and in September, 1985, the withdrawal from jurisdiction of the World Court are strong indications that, in what appears to be a reversal of earlier post-war support for collective international approaches to global problems, the dominant forces in this country are increasingly ready to isolate it from world bodies which do not accept their policies and recommendations.

15. Leslie Milk and Dr. Allen Weinstein. "U.S. Participation in the International Telecommunications Union: a Study of Policy Alternatives". Wash., D.C.: Center for Strategic and International Studies. Georgetown University, 1984.

The military advances in satellite communications have been only briefly touched on in the foregoing study. But this updating should not neglect taking note of the two secret space launches of the U.S. Department of Defense conducted in January and October of 1985, both directly involving the expansion of a global "command and control" broadcasting satellite system.¹⁶ The importance of this U.S. military global communications and surveillance capability grows in tandem with the growing dangers of nuclear war and a total breakdown in the fragile relations between nations.

It is to that higher international plane of cooperation between nations that we now turn, for a brief look at recent events in the attempted formulation of communications and information policies which can serve a hoped-for peaceful world development. Perhaps the most significant event, though hardly commented on by communications authorities in the United States, occurred on Dec. 10, 1982 when the General Assembly of the United Nations voted to adopt a resolution approving and accepting the guiding principles for the use of direct broadcast satellites for television which had been the subject of ten years of debate in

16. New York Times, Oct. 1, 1985, p. C1.

the UN Committee on the Peaceful Uses of Outer Space (COPUOS). It will be recalled that those principles included the "prior consent" protection sought by the vast majority of nation-states. The vote was 107 for, 13 against (including the U.S., Japan and Israel and 10 West European countries), and 13 abstentions. The resolution was sponsored by 18 African, Asian and Latin American nations and Rumania. Reporting the event, the New York Times followed the traditional U.S. interpretation by writing that the "General Assembly endorsing a curb on the free flow of information today declared, in effect, that all nations had the right to veto any incoming television broadcasts by satellite from abroad".¹⁷ It also reported that one of the resolution's advocates, Ernesto Rodriguez Medina of Colombia, "suggested that major nations opposing the resolution while alleging so-called violations in the free flow of information apparently 'did not desire any bias to their technological development'". The Times reporter also wrote that, while General Assembly resolutions are not binding, this one was "widely expected here to serve as a basis for negotiations on an international convention".¹⁸

In meetings of the 54-member COPUOS since 1982, the possibility of developing a treaty proposal to transform the

17. "TV Curb is Backed by U.N. Assembly", New York Times, Dec. 11, 1982.

18. Ibid.

non-binding "prior consent" resolution into international law has not been pressed by its advocates. Instead the Committee is continuing its long stalemated debate over the definition of where the atmosphere ends and outer space begins. The Soviets are proposing 70 miles as the cut-off point but the U.S. opposes any fixed point, arguing that hi-tech spacecraft like the Shuttle are making spaceflight possible at lower levels than had been previously thought possible, (recalling that aircraft cannot fly much higher than 80,000 feet -- 15 miles-- which is presumed to be the distance from earth where air rights are, by ICAO treaty, subject to national sovereignty).

COPUOS is also continuing its effort to regulate satellite sensing, an issue which has proved as difficult as "prior consent", with the developing countries unsuccessfully asserting access rights to information about their resources which is gathered by satellite surveillance.¹⁹ For a time COPUOS members sought to consider the danger of the militarization of space raised by the "star wars" initiative, but a threatened walkout by the U.S. removed that item from the agenda and affirmed an agreement that the only UN entity which would consider it would be the U.N Conference on Disarmament.

19. The UN/USA 1985 annual survey of issues before the UN comments: "The U.S., a major sensing state, has appeared reluctant to sacrifice profit, especially for the private companies that own the satellites or analyse the data." Frederic Eckhard, ed. Issues 40: Issues Before the 40th General Assembly of the United Nations. New York: UN/USA. 1985.

It should be remembered that the prior consent guiding principles for DBS adopted by the UN General Assembly referred only to the satellite broadcasting of direct television signals intended for individual receiving sets; it did not apply to the Fixed service, in which the sending and receiving entities negotiate the terms of the exchange in advance. When Fixed Service Satellite broadcasting affects more than one nation, the planning of it must be carried out in accordance with the growing body of rules and regulations of the ITU and as this work has proceeded the focus of action around the issues of transborder broadcasting has tended to shift from COPUOS to the various working groups of the ITU. Under a new director, Richard Butler (whose selection was opposed by the United States), the ITU, which has virtually the same membership as the United Nations, has appeared to take a more vigorous part in the international politics of telecommunications. It has also been playing an important role as advocate of the Third World countries' campaign for full observance of applicable international law.

One of the central and immediate concerns of the ITU is equitable distribution of the slots in the geostationary orbit (GSO), where currently more than 150 satellites (mostly belonging to Intelsat or the U.S.) now operate. The argument is infused with the same issues that make up the daily agenda at the UN and in confrontations between the U.S. and Third World countries, that is, how is the wealth and technology of the West to be made

more accessible to these other countries without at the same time furthering their dependence on and penetration by western culture and capital or diminishing the opportunity for returns on capital investments. In the case of the GSO the U.S. seeks to ward off what it calls "a priori" planning which would allot orbital slots to countries on an equal basis and without regard to their readiness to use them. The U.S. argues that advancing technology is allowing closer placement of satellites (2 degrees apart instead of 3 or 4) and will thus make more room in the precious orbit when it is needed. But others are pressing their demand for an end to the first-come-first-served policies which have up to now prevailed in ITU. The controversy was debated at a crucial ITU meeting in Geneva in August, 1985 and is to be resolved if possible at a continuation of that session set for 1988.

Another responsibility which has been assumed by the ITU with increasing vigor has been directed at providing the developing and communications-hungry nations with more technical know-how and with help in obtaining outside funds for investment in telecommunications infrastructures. This it does through programs and seminars that provide telecommunications knowledge and expertise to Third World countries, including the dissemination of information on standardization, and integration of space communications systems with land networks. It is a process that has the effect of building a counterforce to U.S. policies, which are often based on dazzling U.S. superiority in

the technical arena. One such ITU initiative has been the 1985 report of the Maitland Commission proposing a Center for Telecommunications Development within or close to the ITU. Such an autonomous or independent center has little appeal for the U.S. telecommunications industry which is seeking to maintain longstanding dominant positions relatively free of international oversight. One of the new telecommunications newsletters comments: "The aim [of the U.S.] is to make it impossible for ITU Director General Richard Butler to gain personal or practical control over Center resources as they come into being".²⁰

The strengthened prestige of the ITU will have to be reckoned with by the United States if it decides to proceed in defiance of international opinion on the issue of DBS. The problem is not only the ITU provision known as 428A (see pp. 00) and the recent General Assembly affirmation of "prior consent". Now to be coped with is the long established ITU jurisdiction over the designation of segments of the radio spectrum for specified purposes. The ITU member states have so far designated very limited segments of the spectrum for radio DBS and those designated frequencies are closely restricted to prevent interference with existing terrestrial radio services. The U.S. is pushing for extended designations but the ITU conferees are cautious. And in every reference to the matter the reader is -----

20. Chronicle of International Broadcasting. Vol. VI, No. 4, May, 1985, p. 7.

reminded that when designations are made they are to be utilized in accordance with the ITU coordination procedures and regulations. As for television via direct broadcast satellite, the ITU in 1979 allocated a segment of the 12 GHz band for DBS, most of which is to be shared with Fixed Broadcast Service. The ITU holds another trump card and that is the physical relationship between a frequency designated for broadcasting from outer space and the reception of its signal on earth: the higher the frequency, the less power needed to generate the kind of signals which are receivable by the small earth station antennas used for individual reception. In the long view, what seems to be going on is a tug of war between U.S. commercial and government interests on the one hand, seeking to keep open and to broaden the possibility of DBS international radio and television broadcasting, and the vast majority of ITU member states on the other, seeking to regulate and control that possibility through controls and limits on the spectrum segments which satellite broadcasting must use, as well as invoking limits on the existing U.S. dominance of the geostationary orbit.

It should be noted that ITU member countries of regions 1 and 3 (Europe, Africa and Asia) have moved to resolve the two problems of designating space broadcasting frequencies and assigning GSO slots. At the ITU 1977 meeting they set for regions 1 and 3 a portion of the spectrum's ultra high frequency waves (11.7 to 12.7 GHz) for use of Fixed Satellite Service or

for Broadcast Satellite Service(DBS). The member states of these two regions delineated 252 "service areas" for reception of satellite broadcast signals. They also assigned slots in the GSO to 150 nations and territories. The U.S. insisted on postponing the development of a plan for region 2 (the Western hemisphere) until 1983. That plan has now been negotiated, with emphasis on parameters applicable to home receiving sets and with interim arrangements which permit the process of development to go forward pending more permanent implementation of fixed spectrum allotments and GSO assignments.²¹ It awaits ITU approval. What is not resolved by any of these plans is the matter of direct television broadcasting by satellite between regions, except that the plan of region 2 may not contain modifications which would interfere with broadcast satellite service in regions 1 and 3.

As part of the UN's stepped-up interest in redistributing access to space technology and space telecommunications a multinational space conference was held in Vienna in 1982, "Unispace '82". The participants mandated a report on the feasibility of national use of DBS for education purposes, including the possibility of international or regional DBS

21. This brief description draws on the detailed technical analysis of R.G.Amero, R. R. Bowen, J.G. Chambers and J. Forsey, "The Results of RARC-83:Broadcasting Satellite Planning for Region 2".Space Communication and Broadcasting.Vol.1, No.4.Dec.1983.

systems. Under sponsorship of ITU, COPUOS and UNESCO, the report²² was written by a group of 18 experts (none from the U.S.). It provides essential information to countries or groups of countries on how to proceed, and urges that developed countries, international organizations and UN programs provide the needed technology and financing. It also proposes that a cost-effective way for nations to get direct broadcast satellites for their citizens would be to form a large international multi-channel multi-satellite time-sharing system which could be supervised by one of the existing organizations (ITU would seem to be a possibility) or by a new one, presumably UN-sponsored. Similar suggestions are emerging for a communications satellite to be owned by the UN itself, including the possibility of financing it through a tax on international telecommunications equipment, or²³ on geostationary privilege. Like the Law of the Sea Treaty or the proposed treaty to authorize and regulate mining on the moon,

22. UNGA COPUOS. "The Feasibility of Using Direct Broadcast Satellites for Educational Purposes and of Internationally or Regionally Owned Space Segments". A/AC.105/341/Rev.1.29 April.1985.

23. At present the UN rents space on USIA-VOA transmitters to issue its public affairs shortwave broadcasts, an arrangement that has not gone unchallenged in the current anti-UN atmosphere: "America's best and most powerful shortwave station is thus handed over as a mouthpiece to the national policies of more than 100 countries, most of which regularly throw stones at us from the glass house beside the East River". From "UN Radio: U.S.-subsidized Lies and Rhetoric", by Leigh Lerner, Minneapolis Star and Tribune April 19, 1985. It might be added that distribution of the UN broadcasts is very limited within the U.S. To my knowledge WBAI/Pacifica is the only station in the New York Tri-state area which carries them regularly.

the idea of United Nations ownership of a communications satellite moves the issue ever further in the direction of international lawmaking and collective regulatory regimes based on equal respect for UN member states, a direction in which the leaders of the United States do not wish to or are not able to proceed, under present conditions.

UNESCO, undaunted by the attacks on it from the West, is continuing its longstanding promotion of DBS, including a project for the development of a "small low-cost receiving earth station for eventual endogenous production" to be used for redistribution of direct satellite broadcasting signals to individual
24
receivers.

It may be seen from the foregoing account that the accelerating promotion of space telecommunications services for developing nations and the growing complexity of international regulatory and supervisory procedures are having the effect of reining in the various options open to the United States. If it wishes to proceed within the emerging international legal

24. "Coordination of Outer Space Activities within the United Nations System: Programme of Work for 1985 and 1986 and Future Years". COPUOS. Report of the Secretary General. New York: UN. Nov. 14, 1984.

framework it will find it increasingly difficult to justify the penetration of the television airwaves of other countries without their prior agreement. Overwhelming technological, financial and military superiority in space telecommunications may preserve an unfettered approach for a period of time. But the demand of other countries for more equitable access to the channels and to the substance of information needed for their survival and development is inexorable and contention and negotiation over the issues raised by this study will continue for a long time. It is a disquieting future with uncertain outcomes.

By way of summary it may be useful to review the issues which augure confrontation. First is the matter of nation states as controlling entities of social existence. To what extent will they or can they -- given the different dominant forces at work within them -- yield dimensions of their sovereignty to larger, shared endeavors with which they can then interact in a movement toward a higher form of social cooperation and collectivity? Will the technology of our time -- with its wide range of capabilities, from the possibility of mutual nuclear destruction to the promise of space-borne global education and self-enlightenment -- will these technologies augment or diminish the chances of amending the nation-state structures?

A second issue is in a sense a negative answer to the previous question. Instead of functioning as a stimulant to an equitable internationalism of negotiated stability, the huge

power and colossal cost of outer space telecommunication may have the effect of further consolidating the world status of its present chief owners and operators. To compete in the launching of satellite systems is after all beyond the reach of most of the nations which are most in need of developmental and survival information systems. Why would those who have the know-how and the access want to share it equitably when such sharing may strengthen what they perceive as enemy or hostile forces? Accordingly it may be anticipated that the imperatives of present market forces may well stultify or control the direction of development of DBS in such a way as to prevent its uses for goals other than market expansion and extension of western ideology.

Within this conflict, which pits the trend toward collective international action against the driving force of a superpowerism, represented in particular by the world role of the United States, lies the awesome power of military technical prowess, subjecting civil society to every greater tension. That a large part of the new information system breakthroughs stem from military research and are today under military control makes it ever more difficult to maintain and exercise the once traditional civilian control processes of democracy.

Another issue which today more than ever deepens the complexity of the United States role in world affairs is the relation which the large private enterprise collectivities have to the power of the state. The development of DBS and its

predecessors in telecommunications has illustrated the long history of the private corporate role as it has evolved from subservience, to integration and interdependence, to dominance. In the United States both internal policies and foreign relations with other nations have for more than a century been shaped and distorted to suit capitalist development needs as against broader needs of the whole society. That each discovery of new ways to achieve human enlightenment and development must be exploited only to the degree that it can be made to realize a profit for invested capital has become part of the controlling ideology, now so deeply embedded that it goes almost unchallenged. The fact that this political and economic system has effected high living standards for large segments of the population has made it easier to conceal the ways in which it has had to suck resources and gains from other segments of the population and from large portions of the rest of the world, particularly from those countries and peoples least able to resist. The possibility of altering or reversing this domination exist but prolonged confrontation is to be expected, both in such international bodies as the UN and its rulemaking specialized agencies like the ITU, as well as in the insurgencies of guerrilla warfare and self-managed revolutions where as it happens the revolutionary process is facilitated in important ways by radio communication, operating clandestinely or with the starved technology of a Third World economy.

Finally there is the issue of ideology, which shows itself so openly in the information wars themselves, where all known techniques of persuasion are being used to win over minds and hearts. Here anti-communism as justification plays its continuing role to build up this country's open television and radio campaign against the socialist countries, a campaign conducted both by the government and by the huge media industry. A parallel but less known undertaking is the vast and unknown media penetration conducted by the CIA, with telecommunications operations that are directly linked to military action, as in Nicaragua and Afghanistan. On a world scale, Pentagon military satellite linkups make accurate surveillance and effective intervention ever more feasible.

This study has described the historical development of the geopolitical, socio-economic and in certain respects technological dominance of the U.S. in the contemporary world in relation to international telecommunications. At the same time, it has outlined possible forms of resistance some of which may be observed today in different arenas of action. Such transformational processes evoke the promise, or at least the potential, of genuine improvements in the lives of those long denied, including the hundreds of millions in the Third World., But it must be said that to capture the full potential of DBS and to unleash it to meet the developmental needs of humankind will not be easily accomplished before the advent of a far more comprehensive restructuring of the present world order.

APPENDIX A -- GLOSSARY

ANALOG TRANSMISSION -- transmission of a continuously variable signal as opposed to a discretely variable signal. Physical quantities such as temperature are continuously variable and so are described as "analog".

ARABSAT -- communications satellite consortium of 22 Arab states.

BANDWIDTH -- the size of the range of frequencies which are utilized in sending transmissions. The greater the bandwidth the greater the number of channels it can carry and the greater the probability of transmitting data without error or distortion.

"BEAM" -- satellite antenna may focus the transmitted power signal to desired "beam" shapes: wide, to cover the visible hemisphere; irregular, to fit specific geographic areas; narrow, for particular receiving targets, etc.

BROADCASTING SERVICE (also called **DIRECT BROADCASTING SERVICE**) -- one-way broadcast intended for reception directly by the general public.

COMMUNICATION SATELLITE -- artificial space satellite designed to act as a telecommunications microwave relay. Most communications satellites are launched by rocket into an orbit 22,300 miles above the equator and are set at a velocity which is synchronized with the revolution of earth so that they maintain what appears as a stationary position relative to earth (the geosynchronous orbit). They are solar-powered, but have a 7-year "life expectancy", set by the amount of fuel they can carry to use for repositioning to maintain the correct orbit.

COMMUNICATION SATELLITE SYSTEM -- includes the operational (and spare) satellites in orbit, manned earth stations for tracking and controlling satellites, as well as a large number of earth stations serving the communication network.

COMSAT -- Communications Satellite Corporation, a public-private U.S. company established by act of Congress in 1962 as the exclusive international satellite carrier. Controlled in large part by the major telecommunications corporations, it provides INTELSAT with technical and operational management services.

COPUOS -- United Nations Committee on the Peaceful Uses of Outer Space.

DIGITAL SIGNAL -- a discrete, discontinuous signal; its various states are discrete intervals apart. Digital techniques increase capacity relative to present analog techniques by a factor of close to 5.

DIRECT BROADCAST SATELLITE (DBS) -- DBS, direct broadcast by satellite, was the term initially adopted by the ITU to differentiate between point-to-point satellite broadcasting and direct satellite broadcasting intended for reception by individual receiving sets. Recent technology advances have reduced the satellite power required for satisfactory reception by individual receivers, permitting in effect de facto "direct broadcast by satellite" although the received transmissions are intended for large earth stations for subsequent distribution to individual sets.

EARTH STATION -- ground-based equipment including the "dish antenna" used to receive or send-and-receive signals via satellite.

"ECLIPSE TIME" -- the dark period which occurs when the shadow of the earth comes between the satellite and the sun. Since the satellite is solar-powered, the eclipse time should occur after midnight to permit a re-charging of the batteries before the next broadcasting period begins.

EUTELSAT -- communications satellite consortium of European nations.

FEDERAL COMMUNICATIONS COMMISSION (FCC) -- Government regulatory agency established by Act of Congress in 1934, charged with regulating the telecommunications industry.

FIBER OPTIC WAVELENGTHS -- thin filaments of glass or other transparent materials through which a light beam can be transmitted for long distances by means of multiple internal reflections.

FIXED SATELLITE SERVICE (FSS) -- the official term for defining point-to-point pre-arranged satellite transmissions; an example would be a television network transmitting signals via satellite to a cable company for subsequent distribution by cable to subscribers.

FREQUENCY -- the rate at which an electromagnetic (radio) wave alternates; measured in terms of how many waves or cycles occur per second. One cycle per second is a Hertz (named after the physicist Heinrich Hertz whose work in the 1880's showed that electromagnetic waves occur as a result of rapid electrical

oscillations). A thousand waves per second is a kiloHertz. A million, a megaHertz. A billion, a gigaHertz.

FREQUENCY BANDS -- defined arbitrarily as follows:

Range:	Term:
Below 3 megaHertz	Low frequency LF
3 - 30 megaHertz	High frequency HF
30 - 300 megaHertz	Very high frequency VHF
300 megaHertz - 3 gigaHertz	Ultra high frequency UHF
3 - 30 gigaHertz	Extremely hi frequency EHF

GEO-STATIONARY ORBIT(GSO) -- see Communication satellite.

HERTZ -- a unit of frequency equal to one cycle per second.

INSAT -- communications satellite system of India.

INTELSAT -- the International Telecommunications Satellite Consortium. Formed by Comsat in 1964 as a global communication system in which nation states become members by buying stock. Currently has 110 members, owns 18 satellites, provides service for most of international telecommunications.

INTERNATIONAL TELECOMMUNICATIONS UNION (ITU) -- A specialized agency of the United Nations, established originally in 1865 by international treaty as the International Telegraphy Union. By periodic convention and conference its some 160 member states agree on standardized communications procedures and practices including frequency allocations and radio regulations .

INTERSPUTNIK -- the International System and Organization of Space Communications. Formed by USSR initiative in 1970, it has become a global system and currently has 14 member states which lease capacity on USSR satellites over Atlantic and Indian oceans.

IONOSPHERE -- ionized layers in the upper atmosphere, between 70 and 250 miles from the earth's surface, which reflect shortwave radio signals back to earth, thus permitting long distance radio communication, but subject to static.

MICROWAVE -- electromagnetic waves in the microwave frequencies spectrum above 890 megaHertz (UHF and EHF). Unlike longer-wave radio signals (including "shortwave"), microwave is not reflected or affected by the ionosphere. It requires line-of-sight transmission. Signals from satellites are transmitted in microwave frequencies above 3700 megaHertz (3.7 gigaHertz).

PALAP -- Communication satellite system of Indonesia.

POINT-TO-POINT -- a connection permanently established between two specific stations.

RADIO COMMUNICATION -- any telecommunications by means of radio waves.

RADIO WAVE -- electromagnetic waves of frequencies between 10 kiloHertz and 3 megaHertz, propagated without guide in free space.

SATELLITE SIGNALS -- transmitted from earth station on up-link frequency; amplified by transponders on the satellite; retransmitted to ground station on a different (down-link) frequency.

SCRAMBLER -- Coding device applied to a digital channel which produces an apparently random bit sequence. A corresponding device is used to decode the channel, i.e. the coding is reversible.

SPECTRUM -- a continuous range of frequencies usually wide in extent within which waves have some specific common characteristics. In that portion of the electronic spectrum utilized for telecommunications specific uses are related to the characteristics of each segment as follows:

Band designation:	Uses:
Very low frequency	voice frequencies on telephone non-multiplexed circuits
Low frequency	suboceanic cables, long-wave radio
Medium frequency	AM radio broadcasting land-based coaxial cable
High frequency	shortwave radio
Very high frequency	walkie-talkie, vehicular mobile radio FM radio broadcasting TV broadcasting
Ultra high frequency	TV broadcasting, microwave radio, satellite-relayed radio

TELECOMMUNICATION -- any process that permits the passage of information from a sender to one or more receivers in any usable form (printed copy, fixed or moving pictures, visible or audible signals, etc.) by means of any electromagnetic system (electrical transmission by wire, radio, optical transmission,

guided waves, etc.). Includes telegraphy, telephone, video-telephony, data transmission, etc.

TRANSPONDER -- a receiver-transmitter combination that retransmits the received signal, greatly amplified and at a different frequency. Communication satellites usually contain several transponders.

APPENDIX B -- CHRONOLOGY(HIGHLIGHTS)

- 1831 -- discovery of electrical induction by Faraday
- 1835 -- Morse designs telegraph sender and key
- 1838 -- first commercial telegraph link in England
- 1844 -- first U.S. telegraph circuit.
- 1861-1865 -- U.S. Civil War
- 1865 -- first international conference on telegraph regulation, Paris; 20 nations sign agreement
- 1866 -- Western Union, first privately owned national industrial monopoly
- 1866 -- first transatlantic undersea cable
- 1875 -- International Telegraph Union Convention, St. Petersburg
- 1876 -- invention of telephone
- 1885 -- Berlin conference to apportion Africa among European colonializing powers
- 1895-1899 -- first wireless experiments of Marconi, Popov
- 1903-1906 -- first international conference on regulation of radio (Wireless), Berlin
- 1912 -- sinking of the Titanic
- 1912 -- 2nd International Radio Telegraph Conference in London; formation of international agency for radio regulation; United States agrees to join
- 1914-1918 -- World War
- 1917 -- Revolution in Russia
- 1919 -- Versailles Peace Treaty, formation of League of Nations
- 1919 -- Soviet Russia begins international broadcasting
- 1920 -- Harding defeats Wilson, U.S. stays out of League
- 1920 -- Radio Corporation of America is formed
- 1920's -- successful demonstrations of television transmissions
- 1927 -- U.S. Congress enacts Radio Act of 1927
- 1927 -- 3rd International Radio Telegraph Conference, Washington, DC; U.S. excludes USSR
- 1927 -- first commercial transatlantic radio-telephone
- 1929 -- world economic depression
- 1931-1932 -- France and Great Britain begin shortwave international broadcasting service
- 1932 -- 4th International Radio Telegraph Conference, Madrid; members decide on a single International Radio/Telegraph Union, later to be called International Telecommunications Union (ITU)
- 1932 -- Roosevelt elected U.S. president
- 1933 -- Hitler becomes chancellor of Germany; Nazis begin international broadcasting service
- 1939-1945 -- World War II
- 1945 -- U.S. begins peacetime shortwave international broadcasting service, Voice of America
- 1945 -- United Nations formed, 51 member states; International

- Telecommunications Union becomes a UN specialized agency
- 1947 -- first post-war ITU conference, Atlantic City
- 1950 -- U.S. begins broadcasts of Radio Liberty, Radio Free Europe to USSR and Eastern Europe
- 1954 -- 1st meeting non-aligned nations, Bandung
- 1957 -- USSR launches first space satellite, Sputnik, sending first radio signals from space
- 1958 -- United Nations establishes Committee on the Peaceful Uses of Outer Space(COPUOS)
- 1959 -- ITU conference makes first radio frequency allocations for space communications
- 1960 -- United Nations membership reaches 100
- 1960 -- ECHO-1, first telecommunications satellite, launched by NASA
- 1962 -- Congress creates COMSAT, quasi-private corporation to provide satellite telecommunications services
- 1962 -- ATT's TELSTAR I, first privately-owned active communications satellite
- 1963 -- ITU allocates segment of microwave band for use of communications satellites
- 1964 -- COMSAT sets up international consortium, INTELSAT, to provide global telecommunications satellite services for its member states
- 1965 -- ITU (now with 129 members) meets in Montreux; considers satellite broadcasting; votes to exclude Union of South Africa
- 1965 -- first UNESCO conference on space communications
- 1965 -- first Intelsat EARLY BIRD communications satellite; first Soviet communications satellite, MOLNIYA
- 1967 -- US,USSR sign Treaty on Peaceful Uses of Outer Space
- 1968 -- First UN conference on Exploration of Peaceful Uses of Outer Space
- 1970 -- United Nations membership reaches 127
- 1971 -- ITU conference on space communications adopts rule 428A to prevent "spillover" of satellite broadcast signals into countries without their prior agreement
- 1971 -- USSR organizes INTERSPUTNIK, a satellite telecommunications network linking socialist countries
- 1972 -- General Assembly votes to assign COPUOS the task of developing guidelines, including "prior consent", for international direct broadcasting by satellite (DBS)
- 1972 -- UNESCO adopts declaration of principles for satellite broadcasting, including the requirement that for direct satellite broadcasting there should be prior agreement between the country of origin and the receiving countries
- 1973 -- ITU conference in Malaga; first assertion of the rights of member states to "equitable access" to the space broadcasting spectrum; first assertion of registration jurisdiction over GSO
- 1974 -- first U.S. domestic commercial satellite, Western Union's Westar I
- 1976 -- UNESCO conference, Nairobi, endorses call for New World Information Order

- 1982 -- UN General Assembly votes to adopt guidelines for international direct television broadcasting by satellite (DBS), including the prior consent provision
- 1982 -- Second UN Conference on Space (Unispace 82 - Vienna)
- 1983 -- UN observes International Communications Year
- 1984 -- U.S. withdraws from UNESCO
- 1985 -- United Nations 40th anniversary; membership reaches 160
- 1985 -- U.S. withdraws from World Court
- 1985 -- ITU holds first of two conferences on more equitable sharing of the geostationary orbit

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3. Early Studies of Mass Communication
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