

Whose Right to Communicate: Al-Jazeera or CRTC?

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Introduction

In July 2004, the Canadian federal broadcast regulator, the Canadian Radio-television and Telecommunications Commission (CRTC), approved the distribution of the controversial Arabic network Al-Jazeera to Canadian audiences. This station, known as the “CNN of the Arab world,” was approved despite the many stormy debates that surrounded this decision in the Canadian public sphere. According to many Canadians, allowing the broadcasting of Al-Jazeera programming encourages the airing of hate speech, especially in programming depicting Jews, Americans, and westerners in general. In the CRTC’s appendix to the Broadcasting approval for Al-Jazeera, it provides some examples of statements made by Al-Jazeera supplied by parties commenting and objecting this decision. For example, the Canadian Jewish Council (CJC) says that:

Faisal Al-Qassam, host of *Opposite Direction*, a call-in show, stated, on 10 July 2001: "Hezbollah' is a beautiful, mighty name, and as many have said, it succeeded in expelling the Zionists from southern [Lebanon] like dogs - my apologies to the dogs..." (CRTC-2004-51, at <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>).

Despite this view, many Canadians of Middle-Eastern origin believe that it is their right to view programs in their language, and about their cultures, as well as using this network as a diasporic medium to link them to their homelands’ political, social, cultural, and economic discourses. Article (3), section (1-a) from the Canadian Multiculturalism Act (R.S. 1985, c. 24 (4th Supp.)) reinforces this idea, clearly stating that:

It is hereby declared to be the policy of the Government of Canada to:

(a) recognize and promote the understanding that multiculturalism reflects the cultural and racial diversity of Canadian society and acknowledges the freedom of all members of Canadian society to preserve, enhance and share their cultural heritage; (Department of Justice Canada, 1985).

Adopting a human rights lenses, the problematic of this paper is to answer the question of “whose right to communicate: Al-Jazeera or CRTC?”. In other words, one should think about how can we draw a line between a free practice of the human right to communicate, which involves the recipients’ choice of the message, its sender, and its possible consequences on the one hand, and a possible social censorship against hate speech, and propaganda on the other.

The paper will adopt the Habermassian notion of the Ideal Speech Situation articulated in his Theory of Communicative Action as its theoretical background, in which he argues that in an ideal speech situation, the sender should consider the recipients while composing, and sending his/her messages. The question remains, what are the criteria of an ideal speech situation according to the CRTC, and will Al-Jazeera be able to maintain the purity, sincerity, and truthfulness in its messages, or not? On the methodological level, the paper will be divided into two main sections: the first is a historical overview of the “right to communicate” concept arguing that it is not merely the product of the various declarations and covenants in the 20th century, but rather is a thought that is born out of the work of many intellectuals, such as that of John Stuart Mill, John Locke, Jeremy Bentham, and Voltaire among others. After providing the reader with a brief historical background of the emergence of the Al-Jazeera network during the 1991 Gulf War, the paper will analyze the CRTC’s “code of ethics” in which it stated that Al-Jazeera should not fall into “the trap of propaganda and speculation” (CRTC-2004-51, at <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>).

One of the important reasons for choosing this topic is my belief in the importance of the ethical assessment and appraisal of media messages principally from the side of the sender which will inform communication studies by differentiating between “freedom of speech” and “hate speech” on the one hand, and to underscore the various barriers to applying CRTC decisions in real life on the other. However, more importantly, I chose this topic to highlight the importance of the concept of “the right to communicate,” especially in the Canadian communication studies sphere.

Al-Jazeera in Canada: The Problematic

First launched in November 1993, Al-Jazeera, or the “island” in English, was characterized by its breaking of most of the traditional ways of Arab news reporting. In an interview with Abdallah Schleifer Editor of the Transnational broadcasting Studies, Mohammed Jasim Al-Ali the Managing Director of Al-Jazeera said that “the reputation of the media in the Middle East is that the news is censored and controlled by the government. All media business in the Middle East is controlled by the government. The leaders of Qatar wanted to change that; they want to have a satellite channel with the aim of no longer hiding any information” (2000, at <http://www.tbsjournal.com/Archives/Fall00/al-Ali.htm>).

Collectively, it might be argued that beginning in the late 1990s, there are three different types of political communication in the Arab region; as Ayish argues, they are: 1) the traditional government-controlled television pattern (such as the Syrian Satellite Channel), 2) the reformist government-controlled television pattern (such as Abu Dhabi Satellite Channel), and 3) the liberal commercial television pattern (such as Al-Jazeera Satellite Channel) (2002, pp. 140-143).

Meanwhile, no one can deny that the Al-Jazeera network really represented a “change”, a new trend in journalistic techniques and news reporting in the Arab world: “Before Al-Jazeera, most Arab regimes’ broadcasting dedicated a steady diet of mind-numbing entertainment and bland, often harmless news and talk shows” (El-Nawawy and Iskandar, 2003, p. 29). The issues that are most tackled by Al-Jazeera programs and reporting are what have been considered as the Arabs’ taboos, issues such as governmental power concerning their nations, women’s rights, sexuality, and Islamic extremists problems, among many other controversial issues, issues not touched on before in this region by an Arabic broadcasting channel. Interestingly, before the arrival of Al-Jazeera many Arab audiences tended to rely on Western short-wave radio broadcasting in Arabic in the region, such as Radio Monte-Carlo Middle East and the BBC World Service Arabic Language, for more “accurate, objective, and comprehensive” news reporting (El-Nawawy and Iskandar, 2003, p. 39).

In order to outline the differing views surrounding Al-Jazeera and its practices, not only in the Middle-East but also on the international scale, it is important to note that despite the view mentioned above that asserts the innovation and pioneering efforts of Al-Jazeera in producing non-biased, accurate, and free news-reporting, some views oppose that, arguing that this channel is a tool of propaganda, voicing hate speech, and an effective medium of terrorism. From its very first day on air, Al-Jazeera was considered controversial by both the Western and even the Arabs. La Guardia, in his review titled “Channel of Terror,” repeatedly reminds his readers of common images associated with threats of suicide bombings and terrorism aired by Al-Jazeera, and moreover accuses the channel of being the key source of information for “militants” who are not reachable by, or accepting of, Western media:

Remember the sight of Saddam Hussein’s palaces exploding in flames at night? They were recorded by the Arab satellite news channel al-Jazeera. Remember the videos of Osama Bin Laden taunting the west? They first appeared on al-Jazeera. Remember Yasser Arafat telling the world that he wanted to die as “a martyr, a martyr, a martyr”? He said it to al-Jazeera” (2005, p. 51).

Al-Jazeera also has its critics in the Arab world, as a result of its critique of censorship and emergency laws, dictatorship, and the non-democratic environment that violates political and social rights for the Arab citizens through its features, news reporting, programs and even interviews that have really angered not

only Arab political leadership, but the Arab public sphere and opinions of common Arab citizens, such as their interview with former Israeli Prime Minister Ehud Barak. Therefore, it was not surprising that many of Al-Jazeera's offices were closed in many countries around the region, accusing it of being agents of the CIA or the United States, of promoting a natural relationship with Israel, anti-Islam, and yet, at the same time, of anti-Semitism! La Guardia adds that the motto of is true: "Al-Jazeera: the only Arab network with no offices in the Arab world" (2005, p. 52).

However, linking Al-Jazeera's background and problematic status on the global level to our case study in this paper; its broadcast in Canada, one must take note of Article (6) from its code of ethics, where it is stated that its programming should:

Recognise diversity in human societies with all their races, cultures and beliefs and their values and intrinsic individualities in order to present unbiased and faithful reflection of them (Al-Jazeera, at: <http://english.aljazeera.net/NR/exeres/5D7F956E-6B52-46D9-8D17-448856D01CDB.htm>)

"Hence, was this criteria the reason behind the CRTC's approval for the airing of Al-Jazeera's programs, and for giving them the right to communicate in Canada? In order to answer this question plainly, it is helpful to provide a general historical and theoretical background of the origins and development of the "right to communicate" concept, then to draw a link between it and the CRTC decision in hand.

The Right to Communicate: Origin and Development

Many scholars argue that the concept of the right to communicate (RTC) is the legal child of the twentieth century's various languages and legislations starting from the Post World War II period. They consider Article (19) of the *Universal Declaration of Human Rights* adopted by the United Nations in December 1948, as the first launching of that concept, in which it is stated 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 impart information and ideas through any media and regardless of frontiers.

Thus, it is evident that this article affirmed not only an individual freedom of expression but also a collective right that requires cooperation between human beings for it to be practiced in real life. This includes the right to send, receive, and impart any kind of information, ideas, and thoughts using any type of media without any barriers. It was then included, with slightly altered wording to emphasize the right of humans to choose their medium of information, in the *International Covenant on Civil and Political Rights* (ICCPR) in 1966, which entered into force ten years later:

Everyone shall have the right to freedom of expression; the 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.

There is a notable difference in the wording of this article, eighteen years after the *Universal Declaration of Human Rights*: many new technologies emerged in the post-WWII era in the world of communications, and "any other media of his choice" implies the future developments in this area. From a communication standpoint, this covenant "receives greater weight than the . . . declaration, especially because [it] introduces essential specification to the freedom of information concept as understood in the Universal Declaration" (Nordenstreng & Hannikainen, 1984, p. 134).

However, the term "right to communicate" was not clearly realized in real life until a renewed debate was sparked by Jean d'Arcy's 1969 article "Direct broadcast satellites and the right to communicate" in the *European Broadcasting Union Review*, where he claimed that :

The time will come when the Universal Declaration of Human Rights will have to encompass a more extensive right than man's right to information, first laid down twenty-one years ago in Article 19. This is the right of man to communicate. This is the angle from which the future development of communications will have to be considered if it is to be fully understood.

(1977a, p. 1)

However, I have argued elsewhere that the RTC is not a recent one, but rather is rooted in the ideas of certain thinkers of the Age of Reason beginning in the seventeenth century, such as John Milton, John Locke, Voltaire, Montesquieu, Jeremy Bentham, and John Stuart Mill; I suggest that the RTC begins with the work of the 17th century English writer and poet John Milton (1608-1674). In his speech addressed to the English Parliament, Milton defended several types of freedoms and liberties that combine a possible right to communicate; he said in his landmark *Areopagitica*:

If it be desired to know the immediate cause of all this free writing and free speaking . . . it is liberty, Lords and Commons. . . liberty which is the nurse of all great wits; this is that which hath rarefied and enlightened our spirits like the influence of heaven. . . give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.

(1644, reprinted 1951, pp. 48-49)

Many human rights theorists and thinkers believe that John Locke's work constitutes the foundation of the modern conception of human rights. Central to his philosophy is the concept of "freedom"; the main focus of any discussion of human rights, that every human being is free to act reasonably according to his own will and belief. Included here is an adept example Locke's perception of the concept:

Freedom being the foundation of all the rest; as he that, in the state of society, would take away the freedom belonging to those of that society or commonwealth, must be supposed to design to take away from them everything else.

(*Two Treatises of Government* 1690, reprinted 1940, p. 463)

Voltaire (1694-1778) is also considered to be one of the greatest advocates for an absolute right to communicate, evident in one of his famous dialogues "I disapprove of what you say but I will defend to the death your right to say it." Finally, John Stuart Mill (1806-1873) argued for the freedom of thought as an inseparable human right, and at the same time promotes the importance of individuality, emphasizing the treatment of one's opinion as one's own "personal property". This apparently unlimited freedom is not, in fact, the freedom to express "heretical" statements and opinions; rather, Mill suggests that freedom of thought, and opinion could be channeled into the well-being of society as a whole through the individual ability to criticize the "corrupt" government.

Furthermore, the legal language of eighteenth-century philosophy, the *Virginia Declaration*, June 12, 1776, the *Declaration of Independence*, July 4, 1776, and the *American Bill of Rights*, 1789, appeared to placed great emphasis on freedom through the use of phrases such as 'by nature free,' 'inherent rights,' 'enjoyment of life and liberty,' 'no men be deprived of this liberty,' 'unalienable right,' and 'pursuit of happiness.' For example, Article (1) of the *Virginia Declaration* stated:

That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot by any compact deprive or divest their posterity; namely, the enjoyment of life, liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Even if historically the American Revolution precedes the French, many scholars argue that, in many ways, the French Revolution represented a more radical social change than the American, especially for the realization of the ideals of democracy and freedom as well as for the realization of the right to communicate and its embodied freedoms of speech, expression and so on. This idea may be due to the radical changes effected by the French Revolution on the beliefs, structures, and policies of society. The

Declarations spawned by the American Revolution are conceived as extensions of the Magna Carta and the English Bills of rights; as a former British colony, America's main aim in the Revolution was independence from British sovereignty. However, *La Déclaration des Droits de l'Homme et du Citoyen*, or the Declaration of the Rights of the Man and of the Citizen (1789) was undeniably a turning point – especially in the history of the idea of treating communication as a basic human right – as it synthesized from the Enlightenment thinkers the concepts of “freedom,” “liberty,” and “fraternity” in expressing opinions and attitudes. It was the first formal realization of the right to “unrestrained” communication as a “sacred” right of human beings. In addition, the Declaration formally states in Article (11) the importance of an “unrestrained” and “free” communication for every man and citizen. It also mentioned different formats of communication (opinions and attitudes, etc.) and different media (speaking, writing, etc.):

The unrestrained communication of thoughts and opinions being one of the most precious rights of man, every citizen may speak, write, and publish freely, provided he is responsible for the abuse of this liberty, in cases determined by the law.

Although several international declarations have proclaimed communication as a basic and universal right for all human beings without any kind of qualification, I argue that there are many kinds of communication that make these proclamations problematic. The cases of hate speech, pornography, the use of internet to voice hatred, use of offensive signs and gestures are seen for their practitioners a sign and an illustration of their “right to communicate” their ideas regardless of other members of society's right to communicate too. In other words, does Al-Jazeera, for example, have a right to communicate their news and programs in Canada despite the fact that many Canadians consider this news to be “hate speech”? Moreover, how can we define, at least theoretically, a right to communicate for a controversial channel such as Al-Jazeera?

From the forgoing discussion, one can see that early work regarding communication by Milton, Locke, Voltaire, and Mill generally recognized such problematic cases; however it is questionable whether they provided a satisfactory way of resolving the difficulties these raise. I argued that German philosopher Jürgen Habermas offer a more helpful approach to the dilemmas in question and provides a sounder basis for considering communication as a human right by setting-up criteria of what could be defined as a “right to communicate” (Dakroury, 2003, pp.88-97).

Jürgen Habermas: A right to “undistorted” communication

Habermas's philosophy offers a possible approach to investigating communication as a possible human right through his Theory of Communicative Action in which he offers a way of handling controversial practices of communication. Habermas synthesized ideas from, and was inspired by, many intellectuals and movements that preceded him; among these were religious Protestantism, the Enlightenment, Kant, Marx, and American pragmatism, especially the work of Herbert Mead and John Dewey. Habermas was greatly inspired by the Protestant culture; for him, Protestantism “gave birth to a concept of community constituted of independent moral actors bound by voluntaristic commitment to common ethical norms” (Antonio, 1989, p. 730). He sees Protestantism as embodying three main values, ‘scientific,’ ‘artistic,’ and ‘ethical,’ which form the basis for his “Universal Validity Claims (truth, beauty/authenticity, [and] normative rightness)” (Antonio, 1989, pp. 730-731).

At the heart of Habermas's Theory of Communicative Action lie an important and a fundamental idea: that is his assumption that all human speech includes what he refers to as ‘validity claims’; and that an ‘Ideal Speech Situation’ assumed in the use of language. Here, the following questions are proposed: Could access to pornography be considered as a right to communication? Does a person have a right to use aggressive and offensive language to communicate with others using any medium such as disseminating hate speech? What possible approaches might Habermas offer to solve these problems? In this context, Habermas, motivated by his knowledge of psychological literature, was mainly concerned with answering the following question: “What would ‘undistorted communication’ be like?” (Giddens, 1985, p. 128). This is to some extent similar to the question proposed in the idea of a right to communicate:

What type of communication could be considered universal and would be protected by the international, national, regional, and even personal regulations and laws, and could such communication be considered a basic human right?

In order to answer these questions, it is important to look at Habermas's emphasis on validity claims, and their being prerequisites for establishing undistorted communication between communicators. He says that in order to participate in a communicative process that is aiming towards achieving an 'understanding,' one can assume to have four basic validity claims:

I shall develop a thesis that anyone acting communicatively must, in performing any speech action, raise universal validity claims . . . insofar as he wants to participate in a process of reaching understanding, he cannot avoid raising the following . . . validity claims. He claims to be

- a. *Uttering* something understandably.
- b. Giving [the hearer] *something* to understand;
- c. Making *himself* thereby understandable; and
- d. Coming to an understanding *with another person*.

(Habermas, 1979, p. 2)

From this, one could infer that Habermas is proposing that a possible right to communication is not simply "sending" messages, claiming an absolute freedom of speech whatever the content of the message represents. Instead, he is presenting the basic characteristics for an 'undistorted communication,' where the message's sender has specific 'obligations' towards the hearer or the receiver: that he/she speaks comprehensibly and responsibly gives the receiver a plausible account of what he or she means. More importantly, the speaker is justifying his speech according to specific social norms and values. Hence, one could see that hate speech, for instance, could never be considered "communication" according to Habermas. Based on this point, and applying it to our case study here, one can argue that one of the important reasons that might be behind CRTC's approval for broadcasting Al-Jazeera is that it should be sending "undistorted" messages to the Canadian viewers:

The CCTA [Canadian Cable Television Association] and Vidéotron (the sponsors) . . . stated that the Al Jazeera service focuses on news, information and expression of opinions, . . . [and] has a strong reputation worldwide, is a strong promoter of freedom of expression, and provides unbiased and accurate coverage. (CRTC 2004-51, <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>)

Clearly, one who voices hate speech is not, in any way, speaking truthfully, or sincerely, nor interpreting 'true,' or 'justified' facts. Habermas clarifies this point:

The speaker must choose a comprehensible expression so that speaker and hearer can understand one another, the speaker must have the intention of communicating a true proposition content . . . so that the hearer can share the knowledge of the speaker. The speaker must want to express his intentions truthfully so that the hearer can believe.

(1979, p. 2)

Giddens summarizes this position by explaining that for Habermas, "undistorted communication is language-use in which speakers can defend all four validity-claims –where what is said can be shown to be meaningful, true, justified and sincere" (1985, p. 129). Hence, in Habermas's view, the controversies and problems such as hate speech for example that depicts certain race, color or sex, could not be

protected under the claim of the absolute or universal right of communication, because, lacking the Habermassian pre-conditions discussed above, these types of practices are not communication! Deception, manipulation, and cheating among communicators is certainly part of what he meant by 'distorted communication' and this is exactly what the CRTC needs Al-Jazeera to prove in its broadcast to Canadian viewers. In fact, this point is key in representing the views of those who are against the broadcasting of Al-Jazeera in Canada; CRTC notes that for them, "Al Jazeera has a pattern of broadcasting hate propaganda during its programming, largely targeted at Jewish people, in contravention of Canadian laws and broadcast standards" (CRTC 2004-51, <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>).

For this reason, it is important to clarify the significance of the "obligation" dimension in Habermas's point of view. The speaker, according to him, -- Al-Jazeera here—must meet specific obligations that the hearer is expecting he or she will fulfill. For Habermas,

The bond into which the speaker is willing to enter with the performance of an illocutionary act means a guarantee that, in consequence of his utterance, he will fulfill certain conditions.
(1979, p. 62)

Considering the previous Habermassian explanation, it can be argued that his communication prerequisites were, interestingly, the main position that CRTC adopted in its conditional acceptance on Al-Jazeera broadcast; section 8.1 of article (50) of the 2004-51 CRTC public notice states that:

No licensee shall distribute a programming service that the licensee originates and that contains

- (a) anything that contravenes any law;
- (b) any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability;
- (c) any obscene or profane language or pictorial representation; or
- (d) any false or misleading news.

Accordingly, Canadian viewers have a right not to receive any "unacceptable" messages, sometimes thought to be "problematic" for their culture, norms, traditions, religion, race, sex, and social values. Habermas genuinely set up these claims by his notion of 'reciprocal' communication, where a sender (or speaker) may have a right to send, but under the condition that he or she meets the receiver's demands and expectations:

The speaker must choose an utterance that is right so that the hearer can accept the utterance and speaker and hearer can agree with one another in the utterance with respect to a recognized normative background. Moreover, communicative action can continue undisturbed only as long as participants suppose that the validity claims they reciprocally raise are justified.
(Habermas, 1979, p. 3)

Therefore, with regards to the question posed in this paper "whose right to communicate: Al-Jazeera or CRTC?," I shall argue that the right belongs to both the Canadian audience as represented by the CRTC (as the broadcasting regulator) and the Al-Jazeera channel which directs its programs to more than 500 thousand Canadians of Arab origin living in Canada. This population has the right to communicate their language, norms, and traditions on the one hand, while representing a sign of diversity – the core value in the Canadian multi-culture society – on the other. Obviously, CRTC documents in its decision that, according to a CAF online survey "98% of respondents wanted to receive Al Jazeera in Canada in order to keep in touch with political and cultural events in their countries of origin" (CRTC 2004-51, <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>).

To stress this point, one should clarify what the other conditions are for an acceptable communication that can be considered as a right to communicate, Habermas sets out another condition:

[A speech] act may be called “acceptable” if it satisfies the conditions that are necessary in order that the hearer be allowed to take a “yes” position on the claim raised by the speaker. These conditions cannot be satisfied one-sidedly, either relative to the speaker or to the hearer.

(Habermas, 1984, p. 298)

Hence, and accordingly, if Al-Jazeera broadcasts an opinion that is not acceptable (a hate speech for example), it cannot claim a right to communicate since it is not the only participant in this communicative situation; there are other communicators involved: the hearers (the audience) of its programs, who do not take a “yes” position towards this speech. On the contrary, the receiver does not accept the speech because it does not fulfill his demands, nor his “right” to communicate. Therefore, a possible answer to the paper’s core question is that Al-Jazeera does not have an absolute right to communicate, but rather has a right that is bound by his duties toward recipients of his speech to be just, true, justified and importantly, “acceptable.”

Habermas, in other words, emphasizes the conjunction between the ‘claim’ or the expression and its ‘content’; therefore, advocates for hate speech, pornography, and criminal autobiographies cannot claim the protection of the law, as they are not practicing communication in this sense. Here, Habermas clarifies that the content of the speaker’s speech is a very important variable that leads the receiver to either accept it or not accept it:

With his “yes” the speaker accepts a speech-act offer and grounds an agreement; this agreement concerns the *content of the utterance*, on the one hand, and, on the other hand, certain *guarantees immanent to speech acts* and certain *obligations relevant to the sequel of interaction*.

(Habermas, 1984, p. 296, italics in original)

Thus, the CRTC states in article (60) of its 2004-51 public notice that it is extremely important for ensuring Canadian values and at the same time prohibiting offensive comments that might target some persons living in Canada. Moreover, distribution of such messages are not only causing harm to the targeted persons, but also rupturing the cultural and social tissue among different cultural groups in the Canadian society. Therefore, the CRTC asserts that the Canadian broadcasting system should act as a “safeguard” to ensure the enrichment and strengthening of this multicultural value in Al-Jazeera’s broadcasts. The CRTC adds that this regulation is not only aimed at protecting Jewish-Canadians, but also at protecting all Canadians including Arab-Canadians who in turn, rely on the CRTC to regulate Al-Jazeera but according to Canadian laws and regulations and broadcasting standards.

Generally, we can summarize the Habermasian contribution in the thought of communication as a possible human right through his assertion of both ‘responsibility’ and ‘rationality.’ Responsibility, as clarified before, is the obligation that makes the speaker committed to the receiver by providing him with a pure, true, and sincere pattern of communication. This pattern, according to Habermas, leads to ‘understanding.’ Therefore, we can eliminate hate speech as a pattern of communication. Can someone claim that hate speech is aiming towards understanding, rather than deceiving and manipulating? The same is applicable to pornography: Can pornographers claim that they plan to reach an understanding with receivers? In fact, Habermas summarizes his claim by pointing out that “only responsible persons can behave rationally” (Habermas, 1984, p.14) and that validity claims are intertwined with the notion of responsibility:

In the context of communicative action, only those persons count as responsible who, as members of a communication-community, can orient their actions to intersubjectively recognized validity claims.

(Habermas, 1984, p. 14)

It is interesting also to note here that although this is a somewhat abstract idea of communication, it implies the social role of communicators in the many levels of communication (e.g., personal, group, mass, etc.) and their responsibility for generating society's normative rules which are embodied, according to Habermas, in validity claims and moral prerequisites, including human rights. If people were to communicate using the Habermasian model of the *Ideal Speech Situation*, while practicing and producing communication as a human right, this would be the 'ideal' and more powerful situation than one where the rules are merely followed without regard to the consequences (e.g., everyone has a universal right to free speech, even criminals).

Collectively, one can argue that the philosophy of Habermas has significantly enriched the idea of a possible right to communication, as he defined validity claims in which the sender of a communicative message must meet the receiver's demands in order to engage with him or her in communication. In other words, Habermas stresses the interchangeable relationship between right-duty and demand-responsibility.

A Right to Communicate: How?

Despite the CRTC's theoretical enforcement of a Canadian right to communicate through the allocation of the *Broadcasting Distribution Undertaking* (BDU) to delete and amend any of Al-Jazeera's programs for the sake of social stability, diversity, and multiculturalism, Brown, in *The Washington Post* reports that even before CRTC regularized Al-Jazeera, many Arab-Canadians watched its programs illegally through various satellite service providers. However, even after the CRTC's decision, these viewers remain unsatisfied, asserting that CRTC's decision censored their right to communicate the "whole" picture because of the BDU's editing or even cutting entirely Al-Jazeera programs. For example, Mostafa Elmnini who moved from Lebanon says, "we like it as *it is*. We get the full truth. . . . This is what keeps us connected back home" (Brown, 2004, emphasis is added). Similarly, an Arab-Canadian who rejects CRTC's decision asserts that: "I'm Iraqi and I do watch al-Jazeera. I don't know why they are making a big deal out of al-Jazeera. On 'The Simpsons,' they make fun of Arabs. They never ban those cartoons. But when it comes to al-Jazeera, it is not fair" (Brown, 2004).

In fact, one cannot deny that on a practical level, the CRTC's pre-requisites for Al-Jazeera's right to communicate are extremely difficult and perhaps even impossible to implement. It is the responsibility of the service providers to ensure that Al-Jazeera is following the code of ethics guidelines, and not violating the rules of broadcasting in Canada. Still, the problem remains of how to organize and manage these procedures. Michael Hennessy of the Canadian Cable Television Association says clearly that this "decision is as good as saying no to al-Jazeera" (CTV, 2004). Evidently, Rogers Cable as one among the major service providers in Canada, admits that the CRTC rule is "too strict and it's unlikely they'll carry the channel [Al-Jazeera]" (CTV, 2004).

From the Al-Jazeera target audience's perspective, they oppose the obstacles that CRTC posed on airing Al-Jazeera broadcast; the president of *Reach Media*, the American-based company that is responsible for distributing Al-Jazeera, argues that this channel is legalized and has been aired everywhere in the United States since 1998, including into the White House and State Department (Brown, 2004).

However, while the CRTC realized that its decision is an undeniable restriction of both Al-Jazeera's right to communicate and the Arab-Canadian audience's right to freedom of expression, it states in Article (81) of its decision that it is justifiable to censor Al-Jazeera's programs in order to maintain an equal right to communicate for those who are not watching this channel, but who might be affected by some of its programs. It is worth quoting this article at length in order to summarize the controversy surrounding this issue:

The Commission recognizes that this measure is a restriction on the freedom of expression of BDUs and, potentially, of viewers of Al Jazeera. However, the right to freedom of expression is not absolute; it is subject to such reasonable limits prescribed by law as can be demonstrably

justified in a free and democratic society. The Commission considers that this requirement is justified because it is demonstrably necessary, based on the record of this proceeding, to ensure that Al Jazeera programming distributed in Canada reflects the circumstances and aspirations of Canadians, including equal rights and the multicultural and multiracial nature of Canadian society. The Commission also considers that the requirement is minimally impairing. It does not deprive BDUs and Canadian viewers of the Al Jazeera service.

Thus, we can see that there are no easy answers to the question: Whose right to communicate" Al-Jazeera or CRTC? Barriers will still remain as to how CRTC will monitor Al-Jazeera broadcast in Canada, since it relies mainly on the broadcast providers as "censoring" agents...copying, editing, and deleting what is not convenient for Canadian viewers, and providing CRTC with full records of Al-Jazeera programs. Then, would CRTC be able to hire necessary human resources to analyze and record any violation of Al-Jazeera? Or it will rely on complaints and comments? Shortly, what are the mechanics of monitoring?. However, other argument can be made by Arab Canadian audience that Al-Jazeera's messages are "convenient", and perhaps more truthful and sincere than another western/Canadian medium. In both cases, each party will claim a right to communicate!

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Specifically, Mohammed Jasim Al-Ali, the Managing Director of Al-Jazeera, gives some examples of the consequences of some Al-Jazeera's programs in some Arab countries: "as the saying goes, perfection is the unattainable dream of man . . . It happened that one of the guests was arrested by his country's authorities for doing nothing, only so he would not be able to show up for Al-Jazeera's program. Others were denied travel by their countries' authorities, or had their telephone lines disconnected. We've had the lines in our studios disconnected in some countries while on air. We do face such difficulties, but we stick to our stance and try to be balanced and fair as much as possible" (2000, at <http://www.tbsjournal.com/Archives/Fall00/al-Ali.htm>).

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Here, one should mention that Al-Jazeera is just this paper's case-study; however, the same question could be posed with other channels in the same society.

Habermas admitted, "I have for a long time identified myself with that radical democratic mentality which is present in the best American traditions and articulated in American pragmatism" (Shalin, 1992, p. 238).

The main point that attracted Habermas to American pragmatism's founder John Dewey's philosophy is "freedom of inquiry, toleration of diverse views, freedom of communication, the distribution of what is found out to every individual as the ultimate intellectual consumer, [and that these] are involved in the democratic as in the scientific method" (Shalin 1992, p. 246).

Among these oppositions is the "Jewish Women International of Canada (JWIC), Global Television Network Inc. (Global), B'Nai Brith Canada (B'Nai Brith), the Canadian Jewish Congress (CJC), Christian Friends of Israel – Canada Inc. (CFI-Canada), Mr. Robert Fattal, and Asian Television Network International Limited (ATN)" (CRTC 2004-51, <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>)

According to the Canadian Arab Federation (CAF)

Given these validity claims, in reference to another problem raised concerning whether pornographers have the right to communicate, it can be seen that the Habermasian validity claims are lacking. No one could argue in Habermas's terms, then, that published pornographic materials (as messages), are 'right,' that the content of these pornographic materials is 'true,' that pornography represents 'truth,' or that pornography is 'justified' as following social rights and norms!

According to Article (78) of the CRTC 2004-51 decision, "the Commission would permit a BDU distributing Al Jazeera to alter or delete the programming service in the course of its distribution *solely* for the purpose of complying with the requirement" (CRTC 2004-51, <http://www.crtc.gc.ca/archive/ENG/Notices/2004/pb2004-51.htm>).