CHAPTER 5

(Re-)casting Epistemic Rights as Human Rights: Conceptual Conundrums for the Council of Europe

Tarlach McGonagle

Introduction

The Council of Europe is a 46-member intergovernmental organisation dedicated to the protection and promotion of human rights, democracy, and rule of law. Its system for the protection of human rights contains strong safeguards for the right to freedom of expression and robust public debate. Those safeguards have been developed by the European Court of Human Rights in its case-law interpreting the European Convention on Human Rights, the organisation's flagship human rights treaty (CoE, 1950). The Court sees freedom of expression and public debate as pre-conditions for, and essential features of, democratic society. This is because

T. McGonagle (✉)
Leiden Law School, Leiden University, Leiden, The Netherlands

Amsterdam Law School, University of Amsterdam, Amsterdam, Netherlands
e-mail: t.mcgonagle@uva.nl

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freedom of expression and public debate are vectors for the free flow of information, ideas, and opinions which inform individual and public opinion-forming and deliberative processes.

Although the rights to freedom of expression and participation in public debate have clear epistemic underpinnings, the Court has yet to set out a comprehensive and coherent vision of this epistemic dimension. This chapter aims to identify selected epistemic values that help shape public debate and to explore the usefulness of re-casting them as human rights. In other words, the chapter examines whether the explication of epistemic rights in the context of human rights could enrich our understanding of the human rights that they already appear to inform.

The chapter's main premise and central argument is that epistemic rights could indeed be strengthened within this human rights framework, if they were to be given more explicit attention and emphasis. A clearer conceptualisation of epistemic rights could be a catalyst for the development of media and information literacy and education, equality of access to information and the media, deeper understanding of the workings of democracy, and better-informed citizen engagement in public debate.

The Council of Europe's System for Freedom of Expression

The Council of Europe's system for the protection of human rights comprises principles and rights, as enshrined in treaty law and developed in case-law; political and policymaking standards; and State reporting/monitoring mechanisms. Each of the instruments and mechanisms has its own objectives and emphases and/or mandates and working methods. Together they form a complex adaptive system of protection with overall 'unity of purpose and operation' (Emerson, 1970, p. 4). The system is complex due to its composition of instruments and actors and the interplay between them, and it is adaptive to ever-changing internal political priorities and external political and socio-cultural circumstances, at the national and international levels.

The European Convention on Human Rights (hereafter, 'ECHR' or 'the Convention') is the most important instrument in this system. Article 10 protects the right to freedom of expression. Its first paragraph sets out

the broad scope of the right, which comprises 'the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers'. Its second paragraph clarifies that the right is subject to certain limitations, which must be provided for by law, pursue a legitimate aim, and are necessary in democratic society. The permissible limitations are interpreted strictly by the European Court of Human Rights (hereafter, 'the Court').

Within the Council of Europe system, there is dynamic interplay between legally binding standards and political standard-setting texts. In this chapter, the main example of political standard-setting texts will be selected recommendations adopted by the Council of Europe's Committee of Ministers on freedom of expression issues. The Committee of Ministers is the organisation's statutory decision-making body. Its recommendations are addressed to the 46 Member States and they offer guidance on how to develop national laws, policies, and practice around their respective themes. Political and policymaking texts (hereafter 'standard-setting texts') ought to be grounded in the Convention and the Court's case-law, but they can also influence the development of that case-law.

As standard-setting texts tend to focus on particular (human rights) issues or (emerging) situations with democratic or human rights implications, they can serve to supplement existing treaty provisions and case-law. They can do so by providing a level of detail lacking in treaty provisions or by anticipating new issues not yet dealt with in treaty provisions or case-law. Whereas the Court must address the concrete facts as presented in specific cases, the Committee of Ministers has a mandate to engage in wider policymaking. It is noteworthy that the Court's judgements refer, for example, to the Committee of Ministers' standard-setting texts in an increasingly systematic and structured way.[1] These standard-setting texts can also facilitate the interpretation of existing treaties by applying general principles to concrete situations or interpreting principles in a way that is in tune with the times.

[1] For example, Recommendation No. R (97)20 of the Committee of Ministers to Member States on 'hate speech', October 30, 1997, is cited in the European Court of Human Rights' judgements in *Gündüz v. Turkey*, no. 35071/97, § 22, ECtHR, 2003c-XI and *Féret v. Belgium*, no. 15615/07, § 44 and 72, July 16, 2009.

A Central Emphasis on Democracy and Participation in Public Debate

The main rationales for the protection of freedom of expression put forward in legal scholarship are numerous, rich, and varied (Barendt, 2005; Schauer, 1982). They could be summarised and essentialised as follows:

- self-fulfilment/individual autonomy;
- the advancement of knowledge/discovery of truth/avoidance of error;
- effective participation in democratic society; self-government;
- distrust of government/slippery slope arguments;
- societal stability and progress;
- tolerance and understanding/conflict prevention; and
- the enablement of other human rights.

These rationales co-exist, complement each other, and overlap in places. There is accordingly no need to choose between the various theories or to seek to ground freedom of expression in any single or 'unitary principle' (Schauer, 1983, p. 242). In fact, there are synergies between the different rationales and the totality of rationales is 'stronger than the sum of its parts' (Powe, 1991, p. 240).

The drafters of the European Convention on Human Rights were not wedded to any single or particular vision of freedom of expression. Nor is the Court: it frequently invokes the above rationales, with varying degrees of emphasis, across its jurisprudence. In the Court's first—and seminal—judgement dealing squarely with the right to freedom of expression, *Handyside v. the United Kingdom*, it held: 'Freedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man' (ECtHR, 1976, par. 49). The Court thus affirmed the importance of freedom of expression for democracy, while also invoking individual autonomy and societal progress as justifications for the right to freedom of expression. This shows the congruence of the different rationales in the Court's approach.

Although the Court embraces different rationales in its jurisprudence, it nevertheless gives pride of place to the argument from democracy. This argument is based on the importance of the free flow of information and ideas for the processes of opinion-forming and decision-making by the

public. Eric Barendt has sharpened this argument, re-shaping it into an argument 'from citizen participation in a democracy' (Barendt, 2005, pp. 18–21). In his refinement of the argument, Barendt doubles down on the agency of citizens. This version of the argument is consistent with the Court's approach, which gives paramountcy to effective participation in public debate on matters of interest to society.

This reading of the right to freedom of expression as instrumental to public debate can be illustrated by a selection of references to relevant case-law. In its 2022 *NIT S.R.L. v. Moldova* judgement, the Grand Chamber of the Court held that 'democracy thrives on freedom of expression' (ECtHR, 2022, par. 185). In *Bowman v. the United Kingdom*, the Court held that 'free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system' (ECtHR, 1998a, par. 42). In *Lingens v. Austria*, it underlined that 'freedom of political debate is at the very core of the concept of a democratic society which prevails throughout the Convention' (ECtHR, 1986, par. 42). The Court has consistently upheld and incrementally expanded this stance in its subsequent case-law. Political debate is nowadays generally taken to include debate on matters of public interest in a broader sense of the term (McGonagle, 2004).

Since its earliest judgements on the right to freedom of expression, the Court has progressively built a strong set of principles around participation in public debate. The Court sees the argument of participation in democratic society as a foundational value. States have a positive obligation to ensure a safe and favourable environment in which everyone can participate in public debate, including online, freely, and without fear, even when their opinions and ideas are contrary to those of State authorities or of significant sections of public opinion (ECtHR, 2010, par. 137; McGonagle, 2015). Within public debate, journalists, the media, and other actors enjoy specific freedoms that are necessary for them to fulfil their public watchdog role in democratic society. That role entails spreading information, ideas, and opinions widely; holding governmental authorities and other powerful actors in society to account; and providing shared fora or channels through which public debate can take place. The enjoyment of specific freedoms, such as editorial and presentational freedom, protection of confidential sources, etc., is subject to the proviso that the public watchdogs act in good faith, in accordance with (professional) ethics and that they seek to provide the public with information that is accurate and reliable.

The Epistemic Underpinnings of Participation in Public Debate

The participatory rights discussed in the previous sections have firm epistemological underpinnings. However, the Court, which 'generally eschews abstract theorising' (Mowbray, 2005, p. 61), has not yet articulated a coherent approach to the epistemic underpinnings of public debate. Its recognition of epistemic rights is best described as 'incidental'. This section will re-cast the identified epistemic rights implicated in participation in public debate as human rights. The added value of this approach is to clarify the epistemic value of the rights in question and to further theorise the Court's vision of participation in public debate.

The range of participatory rights under discussion here are also strongly discursive/communicative in nature. They are premised on a commitment to communication and rational democratic debate.

Onora O'Neill has identified three 'generic technical requirements' for communication to succeed (O'Neill, 2022, 3ff *et seq.*). Her three 'presuppositions of communication' are accessibility, intelligibility, and assessability. The accessibility of communicative content (i.e., the ability of all parties to a communicative activity to access each other's messages) can be gauged in physical and technical terms. Intelligibility (i.e., the ability to understand a message due to a shared language, code, or frame of reference) and assessability (i.e., the ability to check or challenge the content, origin, or motivation of a message) have an epistemic character.

As public debate is essentially about the communication of information and ideas in a shared public context, O'Neill's 'presuppositions of communication' can also be seen as 'presuppositions' of public debate. As such, they also underpin the shared understanding of epistemic rights in this volume. As Hannu Nieminen posits in his chapter in this volume, in any democratic society, 'citizens must have fundamental epistemic rights related to knowledge and understanding', including:

- 'equality in access to and availability of all relevant and truthful information that concerns issues under will formation and decision-making,
- equality in obtaining competence in critically assessing and applying knowledge for their good as well as for the public good,

- equality in public deliberation about will formation and decision-making in matters of public interest,
- equal freedom from external influence and pressure when making choices'.

Nieminen's framing of these rights in terms of equality is a pertinent reminder that access to public debate, information, and knowledge are strongly shaped by the wider dynamics of power relations in society (Curry Jansen, 1991).

Having recalled the contours of epistemic rights, the analysis will next provide an overview of the Court's incidental appreciation of epistemic rights, before considering each of the specific epistemic rights in the context of the Court's case-law.

The Court's Incidental Appreciation of Epistemic Rights

The Court is not so much concerned with abstract notions of the Truth, as such. It is loathe to take on the role of the Arbiter of Truth or the Guardian of Knowledge. Instead, it has developed a pragmatic approach to a number of epistemic issues that are important for public debate in democratic society. Those issues include an informed public, facts, value judgements, historical facts, and the duties and responsibilities that govern the exercise of the right to freedom of expression, which include a commitment to providing accurate and reliable information.

An Informed Public

The Court's articulation of epistemic rights peaked early. In 1979, in its second major judgement on freedom of expression issues, *Sunday Times v. the United Kingdom (no. 1)*, the Court found that the public has the right to be 'properly informed' (ECtHR, 1979a, par. 66). Ever since, this finding has been prominent in the Court's canon of freedom of expression principles. However, the adverb 'properly' has—by accident or design—fallen by the wayside. The Court has only used the adverb on a few occasions since, leaving the staple principle as the right to be informed *tout court* (McGonagle, 2021).

Despite pulling back from the initial formulation, the Court has teased out and consolidated the principle. Its essence is that the public has the

right to receive information and ideas and thus to be informed about matters of public interest and journalists and the media have the task of imparting such information and ideas (ECtHR, 1979a, par. 66). The public interest extends to issues which may give rise to considerable controversy, but it cannot be reduced to the public's thirst for information about the private life of others or to an audience's wish for sensationalism or voyeurism (ECtHR, 2017, par. 171). Politics, current affairs, human rights, justice, social welfare, health matters, religion, culture, history, climate and environmental issues are thus all examples of topics of public interest, whereas individuals' strictly private relationships or family affairs are not.

States parties to the Convention have a positive obligation to guarantee pluralism in the audiovisual media sector, which logically implies that the public has a right to a pluralistic media offer (ECtHR, 1993). In the same vein, the Court has referred to the public's right to 'balanced and unbiased coverage of matters of public interest in news programmes' (ECtHR, 2020, par. 39; 2022, par. 174).

These principles, individually and collectively, constitute important safeguards or stimuli for qualitative aspects of public debate, which the Committee of Ministers has developed further in its Recommendations on media pluralism and transparency of media ownership and promoting a favourable environment for quality journalism in the digital age (CoE, 2018, 2022).

Facts and Value Judgements

Starting in its *Lingens v. Austria* judgement, the Court has sought to make a careful distinction between facts and opinions, holding that the requirement that the defendant prove the truth of an allegedly defamatory opinion infringes their right to impart ideas as well as the public's right to receive ideas, under Article 10 of the Convention (ECtHR, 1986). Whereas the existence of facts can be demonstrated, it is not possible to prove the truth of opinions or value judgements. A value judgement should, however, have adequate factual basis, as even a value judgement without any factual basis to support it may be excessive (ECtHR, 1995, par. 37). The adequacy of the factual basis for the value judgement is therefore an important consideration for the Court when assessing the necessity and proportionality of a measure interfering with the right to freedom of expression.

Despite the Court's best efforts to distinguish between them, there is not always a bright shining line separating facts and value judgements in practice. This calls for constant vigilance by the Court.

Historical Facts

Historical facts have acquired a particular significance in the Court's case-law. The Court has consistently held, as in *Chauvy & Others v. France*, for instance, that: '[…] it is an integral part of freedom of expression to seek historical truth and it is not the Court's role to arbitrate the underlying historical issue, which is part of a continuing debate between historians that shapes opinion as to the events which took place and their interpretation' (ECtHR, 2004, par. 69).

The case required the balancing of two competing interests, *viz.*, the public interest in being informed of the circumstances in which Jean Moulin, a leading figure in the French Resistance against the Nazi occupation in the Second World War, was arrested and the need to protect the reputation of Mr. and Mrs. Aubrac, two other important members of the Resistance. It had been suggested in a book that the latter had been in some way responsible for the arrest, suffering, and death of Moulin. The public interest in this ongoing debate about historical facts was clear and thus clearly within the scope of the protection afforded by the right to freedom of expression.

By way of contrast, the Court consistently takes a strict line concerning 'the category of clearly established historical facts—such as the Holocaust' (ECtHR, 2004, par. 69). This very specific and tightly delineated category of facts is not up for discussion or contestation. The negation or revision of those facts removes expression from the protection of Article 10; the expression then falls under Article 17—prohibition of abuse of rights. Article 17 is essentially a safety-valve designed to prevent anyone from trying to invoke human rights in a way that goes against the letter or spirit of the Convention. This is a normative reflection to Hannah Arendt's cautionary reminder that 'freedom of opinion is a farce unless factual information is guaranteed and the facts themselves are not in dispute' (cited in Post, 2012, p. 29).

There is a strong epistemic component in the Court's elucidation of the rationales governing its approach to Holocaust denial in the *Garaudy v. France* judgement (ECtHR, 2003b):

> There can be no doubt that denying the reality of clearly established historical facts, such as the Holocaust, as the applicant does in his book, does not constitute historical research akin to a quest for the truth. The aim and the result of that approach are completely different, the real purpose being to rehabilitate the National-Socialist regime and, as a consequence, accuse the victims themselves of falsifying history. Denying crimes against humanity is therefore one of the most serious forms of racial defamation of Jews and of incitement to hatred of them. The denial or rewriting of this type of historical fact undermines the values on which the fight against racism and anti-Semitism are based and constitutes a serious threat to public order. Such acts are incompatible with democracy and human rights because they infringe the rights of others. Its proponents indisputably have designs that fall into the category of aims prohibited by Article 17 of the Convention.

The strictness of the Court's approach can be traced to and explained by the drafting history of the Convention and of Article 17 in particular. The drafters were resolved to ensure that the atrocities of the Second World War would not be repeated; an approach captured by popular slogans such as 'never again' and 'no liberty for the enemies of liberty'.

Duties and Responsibilities

Everyone who exercises the right to freedom of expression has certain duties and responsibilities, the scope of which varies in different contexts and depending on who is exercising the right and whether they have a particular function or role (e.g., a journalist, a politician, or a teacher) and on the technology they use (e.g., some media have wider reach and impact than others). Journalists and the media must not cross certain lines, in particular in respect of the reputation and rights of others. In principle, they must abide by the law and they are expected to act in good faith in order to provide accurate and reliable information to the public in accordance with the ethics of journalism (ECtHR, 1999a, 1999b). This is another example of the Court underscoring the importance of quality information being provided to the public, without setting itself up as the Arbiter of Truth.

On a number of occasions, the Court has played down the significance of inaccuracies in media reporting when there has been an overriding public interest in the bigger story. In such cases, the essential information being brought to light by a public watchdog can take precedence over the need for complete accuracy in all details (e.g., ECtHR, 1992, 2005a).

In its *Salov v. Ukraine* judgement, the Court found that false information is not a reason of itself to exclude the information from protection under Article 10, but it also hinted that there is an underlying assumption of commitment to rational public debate in order to avail protection (ECtHR, 2005b). The Court has also held that it is important that minority opinions are aired when they relate to a sphere in which there is a lack of certainty, even if the minority opinion 'may appear to be devoid of merit' (ECtHR, 1998b, par. 50). These tensions are very good illustrations of the underexplored and underarticulated importance of the epistemic underpinnings of public debate.

Specific Epistemic Rights as Human Rights?

As a tentative first step towards identifying and explicating specific epistemic rights in the context of the Court's case-law, each of the four epistemic rights elaborated by Hannu Nieminen and recalled above will now be explored in turn.

Equality in Access to and Availability of All Relevant and Truthful Information That Concerns Issues Under Will Formation and Decision-Making

The scope of this epistemic right largely mirrors how the Court has approached rights of access to the *content* of public debate in its case-law. If everyone is able to exercise their right to receive information effectively, then they will necessarily also enjoy equal access to available information and ideas on matters of interest to the public.

The reference to the availability of 'all relevant information' is premised at least in part on States honouring their positive obligation to ensure pluralism in the audiovisual sector. But pluralism only in the audiovisual sector is not enough in today's multi-media ecosystem. True or effective pluralism today entails a pluralistic offer of information, ideas, and opinions via a wide range of media. Such content must moreover be available, findable, and accessible. Within such a pluralistic offer there must also be due differentiation between the functionalities of different types of media: some media may be better suited for accessing particular types of content than others, which in turn influences users' ability to find and access relevant content (ECtHR, 2008). This is true for various groups in society who may have particular informational needs and/or interests, such as children or minority groups.

The reference to 'truthful information' is covered broadly by the Court's consistent emphasis on the importance of factual information, factual grounding for opinions, the duties and responsibilities of journalists and other media actors to carry out their public watchdog role in good faith and in accordance with the ethics of the profession, including by striving to provide information that is accurate and reliable. Such emphases concern the right of the public to be informed in the context of public debate. The public also has a right of access to official or State-held information. The Court has generally been somewhat circumspect when tracing the contours of this right. Although States do not have a hard, general, positive obligation to pro-actively inform the public under Article 10, whenever they do inform the public, especially in circumstances where they are obliged to do so, they must ensure that the information provided is accurate/reliable (ECtHR, 2016, 2021). The Court has held that the right of access to information would be rendered hollow if the information provided by competent state authorities were to be insincere, inexact, or even insufficient (ECtHR, 2021, par. 108). Moreover, governments and state authorities should in any event refrain from engaging in the production, dissemination, amplification, or endorsement of disinformation (Pentney, 2022).

Equality in Obtaining Competence in Critically Assessing and Applying Knowledge for Their Good as well as for the Public Good

Following O'Neill, (the content of) communication must be both accessible and intelligible before it can be assessable. The same is true of knowledge. Both depend on the accessibility of the forum or channel through which they are communicated or made available and on the intelligibility offered by a shared or understandable language within an (at least implicitly) agreed or understood societal frame of reference.

Prior levels of knowledge or information can also influence the ability to critically assess or apply new knowledge or information. In its *Jersild v. Denmark* judgement, the Court attached weight to the assumption that the target audience of the broadcast at the centre of the case was 'well-informed' (ECtHR, 1994, par. 34). The impugned broadcast included racist and xenophobic remarks by interviewees; the interviewer and his

editor were convicted by the Danish courts for aiding and abetting in the dissemination of racist expression. In the broadcast, Mr. Jersild did not give explicit/strong pushback against the racist remarks. The Court in Strasbourg took into account that the journalist sought to contribute to public debate and that the audience of this serious news programme was 'well-informed'. The Court did not spell out what it meant with this finding, but it seems to suggest that a 'well-informed' audience could be expected to exercise discernment and not to be susceptible to the racist views of the interviewees. Similarly, in *Hertel v. Switzerland*, the Court took into account the 'specific' nature of the readership of the journal in which controversial opinions about the health risks of using microwave ovens were published (ECtHR, 1998b, par. 49). While the Court's consideration of discrete audiences may have made sense in those specific cases, the fragmented and de-contextualised nature of today's online environment raises questions about the ability to pinpoint specific audiences and the continued relevance of the underlying logic of such an approach.

In an increasingly digitised information and communications environment, it is clear that new challenges and 'information inequalities' have emerged, as discussed in detail in Philip M. Napoli's chapter in this volume. Concerns about intelligibility and assessability stem from low levels of digital, media, and information literacy (hereafter 'MIL'), as well as within (some sections of) society. The Court has yet to engage frontally with these issues, but the Committee of Ministers has begun to grapple with them. In its Recommendation CM/Rec(2018)1 to Member States on media pluralism and transparency of media ownership, it has explained:

> In light of the increased range of media and content, it is very important for individuals to develop the cognitive, technical and social skills and capacities that enable them to effectively access and critically analyse media content; to make informed decisions about which media they use and how to use them; to understand the ethical implications of media and new technologies, and to communicate effectively, including by creating content. (CoE, 2018)

MIL is thus essential for individuals to be able to participate effectively in public debate in the digital age. On such reasoning, it is only a small step to argue that the promotion of MIL falls squarely within States' positive obligation to foster a favourable environment for participation in public debate by everyone (ECtHR, 2010; McGonagle, 2015).

Equality in Public Deliberation About Will Formation and Decision-Making in Matters of Public Interest

A guiding principle of the European Court of Human Rights is that the ECHR seeks to 'guarantee not rights that are theoretical or illusory but rights that are practical and effective' (ECtHR, 1979b, par. 24). Access can be a crucial factor in rendering the human right to freedom of expression effective in practice. If an individual does not have access to a forum or channel in or via which they can receive and impart information and ideas, then their expressive opportunities are curtailed and, consequently, their right to freedom of expression clearly is not effective in practice. Viewed from this perspective, access to the media is of great instrumental importance for the realisation of the right to freedom of expression in practice. The same is true—and increasingly so—of access to the internet (ECtHR, 2012).

Fora and channels for public debate can be physical spaces or places or the technical infrastructure on which different media depend for their operation. The right to freedom of expression, as protected by Article 10 ECHR, does not (yet) guarantee individuals a right to freedom of forum, such as mandatory airtime on a particular broadcasting service, access to a privately owned shopping mall to petition for a cause, or an account on a specific social media platform. If, however, the denial of access to private property 'has the effect of preventing any effective exercise of freedom of expression or it can be said that the essence of the right has been destroyed', a State's positive obligation to ensure the effective exercise of the right to freedom of expression may be triggered (ECtHR, 2003a, par. 47). Whether or not this is the case will depend on whether viable alternative fora/media are available. Such a scenario would require some proportionate form of intervention by the State.

The Court has repeatedly underscored the need for public debate to be open to everyone and to be inclusive; there should be equality of opportunity to participate. Its firm reasoning is: 'there exists a strong public interest in enabling […] groups and individuals outside the mainstream to contribute to the public debate by disseminating information and ideas on matters of general public interest' (ECtHR, 2005a, par. 89).

Equal Freedom from External Influence and Pressure When Making Choices

The ability to hold opinions, as guaranteed by Article 10 ECHR, presupposes the ability to form opinions; to seek and gather information, ideas, and opinions and to reflect freely on them, in order to develop one's own ideas and opinions. These freedoms rest on the principle of individual autonomy, which includes the ability to select information and opinions in the seeking and gathering processes. In increasingly digitised societies, where online platforms and algorithmic recommender systems increasingly determine the availability and prominence of content, probing questions need to be asked about whether our use of content is truly free and uninhibited.

Conclusion

The analysis in this chapter has been deliberately exploratory in nature. It has provided an initial, indicative sense of the swirl of epistemic issues touched on by the Court in its case-law dealing with freedom of expression and participation in public debate. The Court has recognised the importance for democratic society of a public that is informed by factual information, factually grounded opinions, and a pluralistic offer of information that is accurate and reliable. These epistemic values and rights are key features of a favourable environment for participation in public debate, which Council of Europe Member States are obliged to ensure.

The next step in the process of re-conceptualising these epistemic values and rights as human rights will be to categorise them more clearly and comprehensively. A closer examination of the Committee of Ministers' more structured engagement with epistemic issues than was possible within the confines of this short introduction could also prove instructive. A more explicit recognition of, and a deeper understanding of, the relationship between epistemic and human rights would likely strengthen the Council of Europe's system of protection against the surge of threats to healthy public debate in the present 'inforuptive times' (McGonagle, 2022). Interference with public opinion-forming processes in the run-up to elections and referenda, denialism of historically or scientifically proven

facts, and war-mongering disinformation and propaganda all threaten epistemic norms and public debate, but they can be offset by renewed and re-invigorated normative commitment to factual, accurate, and reliable information and other safeguards of public debate. It is hoped that the groundwork in this chapter will prove useful for that exercise.

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