

Article

Rikki Don't Lose That Number: Enumerated Human Rights in a Society of Infinite Connections

Clare Tsimpourla

School of Law, University of Strathclyde, Graham Hills Building, 50 George Street, Glasgow G1 1QE, UK; E-Mail: clarets@cibusmentis.ie; Tel.: +44-141-548-3738.

Received: 23 June 2014; in revised form: 7 August 2014 / Accepted: 8 August 2014 /

Published: 19 August 2014

Abstract: The international Human Rights regime acknowledges a certain number of rights. That number, albeit increasing since its inception, does not seem able to keep up with the pace of modern technology. Human rights today are not only exercised in the tangible world; they are also exercised on a daily basis in a world of ubiquitous computing—as such they can be easily breached with a mere click of a button. To make matters worse, these rights are controlled largely by multinational corporations that have little regard for their value. In this paper we will attempt to explore the difficulties the global human rights regime faces today, the challenge that is its enforcement, and whether it has come to a standstill in an age where connections grow faster than the rule of law.

Keywords: telecommunications policy; ubiquitous computing; human rights; social networks; Internet

1. Introduction

Jan Kleijssen [1] recently argued about the pressing need to compose a Bill of Internet Rights [2]; the same framework that vindicated human rights in the pre-internet era is the same framework that vindicates human rights today. The troubling question is to what extent these enumerated rights suffice to accommodate the life of persons in times when information sharing is such an integral part of the worldwide economy that we now call ourselves an information society.

To answer that question we will need to go through an overview of the main provisions of current regime, pinpoint emerging trends of human rights, assess their use and applicability, and last, but not least, deliberate on whether broadening the interpretation of the current framework would successfully make up for the lack of newly enumerated rights.

2. Human Rights: The Beginning

2.1. Global Regime

Rights can be categorised in many ways: individual and collective; horizontal (between persons) and vertical (between persons and the state); first and second generation.

2.1.1. International Bill of Human Rights

As a response to the atrocities of the Second World War in 1945, 51 countries formed an alliance and signed the United Nations (UN) Charter to ensure co-operation and the avoidance of further conflict.

Jørgensen [3] describes first-generation human rights as civil and political; rights that have been on national constitutional foregrounds since the early 18th and 19th centuries. In 1948, the UN General Assembly put these rights on a universal footing—in addition to the more modern second-generation economic, social and cultural rights—by adopting the Universal Declaration of Human Rights (UDHR). Being merely a list of rights, the UDHR was too broad to afford member states with any certainty with regard to its implementation. As such, it was followed by two detailed covenants [4,5], all of which today comprise the International Bill of Human Rights. Third-generation rights, says Jørgensen, came into play much later with the Declaration on the Rights of Peoples to Peace (1984) and the Declaration on the Right to Development (1986).

2.1.2. European Convention of Human Rights

The outcry for the protection of personal rights and the respect of human life after the Second World War was not satisfied by the early stages of the UDHR: the lack of detail in its provisions, the questionable willingness of the member states to enforce it and the lapse of time caused by their reluctance [6] forced the European countries that were more directly affected by the war to take regional action. The Council of Europe (COE) was formed in 1949 and an international treaty, namely the European Convention of Human Rights (ECHR), was swiftly adopted the following year. The ECHR follows the UDHR closely, albeit in a more direct, legally enforceable manner. The COE today has 47 European signatories [7], which comprise 25% of the total number of UN signatories today [8]. The ECHR holds a very important place in the global human rights regime for three reasons:

- (a) A large member of its signatories hold the second biggest GDP per capita concentration worldwide [9] and, inevitably, are very influential when it comes to global policies;
- (b) The COE immediately established an enforcement mechanism, the European Court of Human Rights (ECtHR), that applies the convention on a state level—and also provides for jurisprudence that enriches and gives way for these rights to evolve;
- (c) On a national/individual level, the rights secured by the convention are directly applicable in either monist states, or dualist states that have given them direct statutory effect. In other words, as opposed to the UDHR, the ECHR is legally enforceable on a personal level.

2.1.3. American Convention of Human Rights

In 1948, alongside the UDHR, another agreement was signed: the Charter of the Organization of American States (OAS). It accepted the UN Charter, which in its preamble affirms the respect for human rights and fundamental freedoms [10]. In 1959, the Inter-American Commission on Human Rights (IACCommHR) was formed and subsequently, 10 years later the American Convention on Human Rights (ACHR) [11] was signed by a number of American states, largely similar to the UDHR. The ACHR was the beginning to the Inter-American Human Rights system, constituted by the IACCommHR and the Inter-American Court of Human Rights (IACtHR). The jurisdiction of the IACtHR is contentious; it can only adjudicate on matters brought forward by the IACCommHR, and only if the violation is between signatories of the ACHR. To this date USA and Canada, although members of OAS, they are not signatories of the ACHR. The USA in particular relies heavily on its Constitution to protect the personal rights of its citizens, or alternatively to enable the functions of its authorities [12].

2.2. Regulation

Although the efforts for establishing an ever-growing human rights regime on a global scale since the 20th century are commendable, human rights are still continuously violated. Life is nowadays dependent on telecommunications and, as such, one would expect state authorities to respect that regime. On the other hand in this networked society, even where states abide, private entities hiding behind the veil of jurisdiction might not.

Van Dijk [13] argues that with older communication models it was easier to achieve central regulation, but with the Internet and mobile communications nowadays there are many pillars in the way: new types of electronic evidence, national/local laws, cultural diversity [14], convergence, jurisdictional issues [15,16] and so forth.

The international human rights regime works on many levels; it is multilateral, a combination of hard and soft law, and admittedly quite complex. Given the era within which they were conceived it might be fair to wonder whether the rights enumerated by the charters/treaties and their interpretation are obsolete, or whether the problem is of a regulatory nature, mostly related to their enforcement.

3. Rights of an Inter-Connected Society

Traditionally telecommunications were comprised of telephony, telegraphy, postal services and broadcasting through radio, microwave [17] or—with the dawn of the 1960s—satellite transmission [18]. Today all of the above categories can be said to be subsumed into three: Internet, telephony (fixed and mobile) and social media—in that order.

Since the evolution of the Internet, due to the cost of leasing copper networks and the effectiveness of using data to accommodate several users simultaneously through one line, fixed telephony worldwide has been largely based on Voice over Internet Protocol (VoIP).

Likewise, since mobile telephone devices were given hypertext capabilities and access to the World Wide Web [19], they have evolved into portable computers that run web-centred applications on the

go. Mobile phone technology today thrives on Internet connectivity and the ongoing challenge is for its improvement [20].

The use of the Internet through mobile telephony flourished after the launch of the iOS and Android platforms. These platforms not only allowed the user to run multiple applications on their device, but they also allowed their connection to other users through data, as opposed to being charged for calling them directly; one such application is Skype. In the more recent years new applications have emerged, allowing users to connect and participate in Social Networks such as Facebook, Bebo or Twitter. It has even allowed them to freely upload audiovisual material and be their own broadcasters. Connecting to these networks on the go not only added to the evolution of smartphone programming, but also led to the explosion of information and opinion sharing on the Internet as anyone, at any given time, can contribute their tuppence to the Web.

Telecommunications today have become interactive, instant, incessant and affordable.

4. Application of Fundamental Enumerated Rights

4.1. The Right to Security

Van Dijk notes that although networks were built on vulnerable technology, susceptible to human mistake as well as intentional abuse, nowadays the entire social system is largely dependent on them [21].

Art 9 of the ICCPR and Art 5 of the ECHR are a more elaborate version of Art 3 UDHR on a general right to security. In the said provisions though, this right seems to be confined to the physical and not the mental substance of the person, as it is built on the opposite concepts of liberty and detention; it is therefore a physical right. Unfortunately, as much as the digital world can have an effect on our physical well-being, it is not in itself tangible: unless a person's existence in the physical world has the potential of being affected, the right is not applicable per se in cyber-space where the injury is to their emotional well-being. The person needs to seek protection from regional legislation, which may or may not be in place.

Networking assists in the attainment of security on a personal (physical) as well as a state level [22]. At the same time it also enables crime, both within the network ("cyber-crime") or in the physical world [23]. As national security is a justification against the right to privacy, it is extensively used as a means to its breach.

4.2. The Right to Privacy

Privacy is one of the most controversial rights. The notion of privacy in itself is ever-evolving; we have come a long way from Warren and Brandeis' simple definition of the "right to be let alone" [24] to the more intricate wording of the ECtHR in *Von Hannover v. Germany* [25] stating that the right is "primarily intended to ensure the development, without outsider interference, of the personality of each individual in his relations with other human beings". As such it is acknowledged today that the right to privacy is of major importance: it is part of the right to self-determination, the basic ingredient of personal liberty.

It is worth noting the distinct views of the two main international human rights regimes with regard to the breach of privacy. Art 12 UDHR describes privacy as the right of the person to be protected against “arbitrary or unlawful interference”. The General Comment no.16 issued by the Human Rights Committee in 1988 [26] pointed out that although arbitrary interference can be prescribed by law—and can therefore be considered lawful, it still constitutes a breach of the right to privacy. On the other hand, lawful justification in the eyes of the ECHR is a completely different matter. Per Art 8 ECHR interference with a person’s privacy is lawful if a result of: the interests of national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or for the protection of the rights and freedoms of others. Inarguably, the right to privacy on a European level is severely restricted.

Van Dijk purports that the level of power of the individual is determined by his privacy [27] (p. 120). These days privacy is very hard to ascertain. There is expected—and sometimes informed—impairing of personal information, such as online economic transactions, subscriptions to services or profile creation, but, in tandem, the same can be unexpected/unintentional as, for example, the instantaneous distribution of audiovisual material captured by mobile phone devices, the stealth sharing of personal data by computer/smartphone applications with a remote host, hidden permissions in mobile phone apps or the sharing of viewers’ entertainment habits through Smart TVs with production companies. There is also the notion of gamification, whereby persons are tricked into voluntarily giving up their privacy rights [28]. All of these examples comprise a very small part of everyday network practices and demonstrate the extent to which privacy, and therefore the power of the individual, has been reduced since the inception of the Human Rights regime.

4.3. *The Right to Freedom of Expression*

Paragraph 4 of the Geneva Declaration of Principles (World Summit on the Information Society 2003) incorporates Art 19 UDHR on the right to freedom of opinion and expression. Just as with the right to privacy, its European equivalent, Art 10 ECHR, is evidently confined; it has no application where legal restrictions are in place, and where the interests of national security, crime prevention, protection of morals, good name and confidential information are not offended.

The right to opinion dissemination found an ally in the notion of pluralism, *i.e.*, the right of the public to plural sources of information. Pluralism was upheld by the ECtHR in the cases of *Lentia* [29] and *Groppera Radio* [30] that concerned restrictions on broadcasting licenses and their interstate effect, and subsequently affirmed as a positive obligation of the member states by the 1982 Committee of Ministers Declaration on the Freedom of Expression and Information. Pluralism also protects from state intervention through media concentration. In an information society where everyone can email or post information on social networks with a click of a button—be it on their computer or smart phone screen—pluralism has eroded into a form of over pluralism, making the control of the media even harder to attain; being left with no other alternative, authoritarian regimes now have to result to filtering, or even banning parts of the internet in order to impose their authority [31].

The right to freedom of expression is automatically curtailed by the breach of the right to privacy, for the person might be in fear of the repercussions of the publication of his views, personal information, internet searches, forum posts, chat discussions—the list is endless. It can also be

curtailed by censorship—which has now evolved from its blunt first-generation nature to much smarter strategies [27] (p. 111), content filters [32], defamation and lack of parody laws [33].

4.4. The Right to Peaceful Assembly & Association

The right to peaceful assembly [34,35] can do little on its own in an information society as, just like the right to security, it was designed with the physical substance of the person in mind. The UN Human Rights Council in its resolution 24/5 (October 2013) on the freedom of assembly and association reaffirmed the “importance for all States to promote and facilitate access to the Internet” [36]. At the same time, the guidelines adopted by the Organisation for Economic Co-operation and Development (OECD) in 2011 state that enterprises are under an obligation to comply with national laws [37].

It is hard to see (and remains to be seen) how multinational corporations such as Google, Youtube, Facebook, Twitter or LinkedIn that provide their services in authoritarian countries are given any choice as to whether to allow the online assembly of their customers while defying the laws of the said states. LinkedIn in particular has declared its expansion to the Chinese market by building a portal with limited, pre-approved content [38].

5. Human Rights of the 21st Century

The Parliamentary Assembly of the Council of Europe (COE) recently issued a recommendation for a white paper on the changes the democratic process needs to undergo in order to subsist in a new information and communications era [39]. At the same time, several other initiatives [40–43] come to show that the wind is changing and that along with technological accomplishments, new rights have emerged; rights that need to be officially affirmed.

5.1. The Right to Internet Access

The UN Human Rights Council in the General Assembly of July 2012 on the Promotion, Protection and Enjoyment of Human Rights on the Internet unanimously called the states to “promote and facilitate access to the Internet”, as a means for the facilitation of freedom of expression [44]. Arguably this assertion might recognize a right to Internet access, but it still remains an undefined, unascertained, unadopted right of a very general nature that is of no enforceability per se.

As far as the ECHR is concerned, in *Yildirim v. Turkey* [45] while the ECtHR ruled against a blanket restriction of access to certain Internet content, it held that when a strict legal framework is in place that restriction could be permissible. Evidently, the judgment does little to establish Internet access as a right.

5.2. The Right to Communicate

Art 3.4 of the International Telecommunication Regulations (ITRs) provides for “the right to send traffic”. Arts 33 and 34 of the Constitution of the International Telecommunications Union (ITU) also refer to a “right to access international telecommunications services”.

The notion of a right to communicate has been in the spotlight for many years [46]. It is a right of a general nature for it encompasses a multitude of already established rights, inter alia freedom of peaceful assembly and association [27] (p. 111); right to education [47,48]; free participation of cultural life [49], freedom of expression and opinion [50,51].

If anything can be said in favour of establishing an individual right to communication is that there is no point in sustaining the right to freedom of expression if the person does not have access to a means of expressing themselves. Other than the double protection fundamental rights could avail of today either from federal state formations or their implementation on a national, constitutional level, setting the right to communication in stone is essential for protection against:

- (a) Press concentration and manipulation by the state;
- (b) Misleading information: In *X v. Sweden* [52] the ECtHR held that a person has no standing against misinformation unless affected directly by it. Where it takes places on a state level it is arguable whether the individual can avail of any such protection;
- (c) The pitfalls of the New Economy: As Van Dijk points out, we live in times of the Enterprise 2.0, whereby undertakings are socially connected, information exchange is a predominant economic activity, and networks used as conduits for trade of goods and services [27] (p. 69).

5.3. World Wide Web Specific Rights

The right to be forgotten, the right to anonymity, consent, and data protection are specialised, web-specific rights under which the end user can avail of the protection of his identity. These rights are complementary to the fundamental rights of privacy and personal security against applications that make use of surveillance or profiling technologies (tagging, biometrics, GPS tracking, cookies, data mining and retention, *etc.*). It could be argued that, due to media convergence, nowadays these rights could subsist as both standalone, or as an addition to the right of–unobstructed–communication.

5.4. The Right to Net Neutrality

The popularity and ever-growing use of the Internet makes it invaluable as a means of communication, research and knowledge. Today it is an essential good which everyone should fully avail of; there is need for an open Internet, a service available to all. The way to attain such broad accessibility is for all persons to be given equal access opportunities without a preferential policy with regards to pricing or data quality being set by service providers; this is the concept of Net neutrality.

Net neutrality is a vast umbrella under which lie, inter alia, two very important rights: that of social equality and the right to fair use. The rights to equality and against discrimination are provided for by Art 2 UDHR, and Protocol 12 (2000) ECHR that affords the person with general protection against discrimination of their lawful rights. Equality is not only relevant to network access per se, but it also involves the quality, cost, and efficiency (teledensity rates) of that access.

Other than factors such as age, gender, nationality or geographical location [53], lack of a fair use of the internet can also promote inequality and breach a number of personal rights: cyber-bullying, trolling, cyber-stalking, digital theft, are all fairly new concepts that are not yet efficiently regulated on a global scale and that, at the same time, impede a number of users from fully enjoying their

telecommunication experience; not only does such behaviour alienate the user on the other end by causing emotional distress, but where there is any breach of an ISP's policies the ISP retains the right to alter, or even deny providing their services. Such right can be exercised either per individual customer, or even on a universal scale: in 2007, Rogers Communications started imposing throttling on all encrypted data transfers throughout their Canadian network in an alleged attempt to constrain peer-to-peer (P2P) exchange and bitTorrent traffic. This practice has been criticised as another kind of barrier to Net neutrality [54].

Being evident that the UDHR alone had fallen short, the World Summit on the Information Society (WSIS) was held under the aegis of UNESCO in 2003 and 2005 with the purpose of ascertaining personal rights in a digital era, and putting an end to the digital divide. Its objectives are currently being implemented by the United Nations Group on the Information Society (UNGIS): building an inclusive Information Society; placing ICTs at the "service of development"; promoting the use of information and knowledge for attainment of development goals; addressing the new challenges of the Information Society [55].

6. Corporate Rights

Rights apply to persons, natural or artificial. Throttling has not only been used to stop potential illegal file sharing; it has also been used as a platform for commercial dealings [56,57]. Unfortunately, the one who feels the impact of such business practices the most is always the end user.

The concept that companies, being artificial (legal) persons, share, as far as practicable, the rights of natural ones, is not novel. In 1888, in the case of *Pembina Consolidated Silver Mining Co. v. Pennsylvania* [58], the Supreme Court acknowledged a private corporation's right to be equally protected by the Fourteenth Amendment to its human counterparts. The reasoning behind the judgment was that corporations themselves are composed of natural persons and, therefore, the only way to sufficiently uphold their rights was to extend them to those of the corporation [59]. More recently, in 2011 the Grand Chamber of the ECtHR found the Italian state in breach of Art 10 (right to free expression) against a broadcasting company, namely *Centro Europa 7* [60]. The state had set obstacles to the company's transmission; as a result it was found guilty of impeding the company's freedom to impart information and ideas. The loss was two-fold: the company could not disseminate the information and the consumer could not receive it. Seemingly, the victory once more belonged to both the natural, as well as the legal person.

Although it is widely agreed on that no right is absolute, a person's rights should not trample on those of another without lawful justification. When the one in breach is a corporation the situation can get all the more complex.

Corporations come in all sizes: small to large, local to transnational (TNCs). The bigger the corporation, the harder it is to enforce the law—either due to jurisdictional issues or due to political influence. There are three ways in which corporate structures are regulated with regard to human rights: regional legal framework, international human rights regime and self-regulation. Since regional legislation varies widely from country to country, we shall only examine the last two categories.

6.1. International Human Rights Regime

The years following the Second World War led to an era of vast economic progression. Local economies worldwide grew into giants and with the help of trade extended their branches into those of other economies. Blooming stock markets pointed to a new era of industrialization and production, leading to interdependence among corporations and the states. On 21st March 1974, the UN General Assembly declared the beginning of the *New International Economic Order* [61], a framework to ease trade between developed and developing member states, and increase protection in financial issues. A Charter of Economic Rights and Duties [62] followed shortly.

It was by now evident that corporations had expanded beyond their original borders, into other jurisdictions. Such expansion, in addition to the protection afforded to companies by the concepts of a *separate legal personality* and *limited liability* [63], gave them powers that often overshadowed those of governments; they could easily coordinate their moves in order to achieve an end, draw on production and cost, invest and control the area of investment. As Anderson reasonably writes, decisions on people's lives are directly sourced from TNCs, and not governments [64].

The growing number of TNCs and worldwide trade served as a means to globalisation, which in turn was a conduit for cultural exchange; along with the advances in technology, information not only had a way to travel fast, but it also had a reason to travel far. As a result, a number of corporate abuses started surfacing and it was by now evident that matters were getting out of control. In 1976, OECD successfully set the first Guidelines for Multinational Enterprises imposing an obligation on member states to provide legislation to which TNCs would adhere. As mentioned *supra* these guidelines were extensively revised in 2011 [65]. In 1999, UN Secretary General Kofi Annan proposed at the Davos World Economic Forum a voluntary agreement between stakeholders that would strive to uphold human and labour rights, while it would ensure the protection of the environment [66]. This agreement, namely the Global Compact, works on a rewards basis, where good business practice of a signatory results in its publication. Up to this date it has been signed by over 12,000 participants [67].

Other than voluntary adherence to universal principles, there have been attempts to make the international human rights regime legally binding on TNCs. Until recently any attempt succumbed to the significant resistance stemming from the corporate world [68,69]. In 2011 the UN Human Rights Committee endorsed the Guiding Principles on Business and Human Rights [70], the result of a series of consultations conducted by John Ruggie under the authority of the former UN Secretary General. The outcome is a conglomeration of hard and soft law, which holds both the state as much as the business liable for any human rights violations. Art 15 states that corporations must commit to the protection of human rights by setting a policy that will need to be monitored and assessed, and any violations remedied through legitimate procedures. Arts 11–14 impose a positive obligation on businesses, whatever their size or geographic extent, to avoid causing or getting involved in human rights' violation, and remedy/mitigate any such violations if they are the result of their operations, or those of *their business relations*. The Cambridge Online dictionary defines *relations* as “the relationships that exist between two people, organizations, or countries, whether these are good or bad”, and rightly so.

Multinational enterprises do not conduct their business with small players: they conduct their business with company groups of the same magnitude, organisations and governments. As an example,

ZTE is a global provider of telecommunication equipment based in China. They have a global clientele of the highest standard and their assets are of a total exceeding ¥100,000,000. One of their clients is Ethio Telecom, the national telecommunications provider of Ethiopia. On 25 March 2014 Human Rights Watch issued a report, the result of extensive research, demonstrating how Ethio Telecom is using the equipment of their prior exclusive supplier, ZTE, to monitor and target members of the opposition within the country's borders and abroad [71]. In 2011, Nokia Siemens openly admitted in a statement that they are aware that their products have been used for a number of abuses by several governments [72]. On 15 May 2014 John Chambers, the CEO of Cisco Systems Inc, the leading network technology, services and training corporation, reportedly sent the President of the USA Barack Obama a formal letter requesting that NSA ceases using Cisco equipment for surveillance [73]. One needs to raise the question whether the mode of use of the said equipment by the NSA was not foreseeable when Cisco was closing the deal. Another reasonable question is why the CEO only reacted when the documented information was made public through extensive reporting [74,75].

6.2. Self-Regulation

It is evident that even with the final universal guidelines in place, the UN Guiding Principles on Business and Human Rights, the CNTs do not respond well to hard law; they seem to have an extraordinary ability to circumvent it. What does seem to cause a reaction though is public opinion; corporations seem to fear loss of business as a consequence to human rights violations more than they fear legal repercussions.

To achieve a good reputation, and as a prior custom to the Guiding Principles that obliged them to have a Human Rights policy in place, corporations engage in extensive non-financial reporting. These reports usually include compliance to labour standards, steps taken against discrimination, environmental impact of corporate operations, and so forth. History has shown that ostentation can sometimes be as advantageous in corporate image-making, as is the admission of guilt—considering Cisco's example above.

Although self-regulation seems to be nothing but a game of public relations for most NCTs, the Guiding Principles did not leave everyone unaffected. Nine telecom companies, among them Nokia Siemens, formed an alliance that addresses human rights in the telecommunications sector: the Telecommunications Industry Dialogue. Not only was this co-operation sparked by the new instrument, but it is also in the process of engaging other stakeholders in the promotion of human rights as a business practice, particularly the right to freedom of expression and privacy [76]. One such stakeholder is the Global Network Initiative, members of which are Facebook, Google, LinkedIn, Microsoft, Procera and Yahoo.

7. Conclusions

The formation of an international human rights regime was both necessary and formidable in a time when the majority of the planet was recovering from a very brutal war. Both the UDHR and the ECHR have done well in ascertaining and upholding personal rights in a mass society, such as that of the twentieth century. In the 21st century though, mankind has progressed to what Van Dijk perceives as a heterogeneous society [27] (p. 43) of individuals connected by a thread; that thread has formed a network that needs care and attention in order to be preserved. As society has progressed so have its

cultural traits, forms and means of communication; new rights have evolved and, as such, the interpretation of already enumerated rights, no matter how broad, can never extend to shield the specific needs of our networked society.

TNCs play a big part in daily violations of human rights. The UN Guiding Principles on Business and Human Rights might have given member states authority of acting like a watchdog over corporations within their borders, however it does not seem to have the effect anticipated. Seeing how the ever-growing number of Telecom TNCs presents concentration in certain developed regions, which regions are governed by a definite number of bodies, it causes a particular imbalance in governance and policing. This factor, along with the unwillingness of large corporations to change their business tactics in order to uphold (occasionally unenumerated) human rights, turns the enforcement of human rights law into futile exercise. TNCs will only adhere on their own initiative, when their reputation—and therefore profits—is at stake.

To summarise, the international human rights regime needs to be thoroughly revised in order to include the rights of the new era, as well as a mechanism for their effective enforcement. It seems though that such enforcement cannot be effective unless the mechanism is a combination of law and politics. Let the talks begin.

Conflicts of Interest

The author declares no conflict of interest.

References and Notes

1. Director of Information Society and Action against Crime, COE Directorate General Human Rights and Rule of Law. Available online: <http://www.coe.int/en/web/human-rights-rule-of-law/information-society-and-action-against-crime-directorate> (accessed on 22 June 2014)
2. Kleijssen, J. A Magna Carta for the Internet? CyberDialogue.ca, 2014. Available online: <http://www.cyberdialogue.ca/2014/03/a-magna-carta-for-the-internet-by-jan-kleijssen> (accessed on 22 June 2014).
3. Jørgensen, R.K. Human Rights and Their Role in Global Media and Communication Discourses. In *The Handbook of Global Media and Communication Policy*; Mansell, R., Raboy, M., Eds.; Wiley-Blackwell: Chichester, West Sussex, UK, 2011; p. 96.
4. The International Covenant on Civil and Political Rights (ICCPR 1966). Available online: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed on 22 June 2014).
5. The International Covenant on Economic, Social and Cultural Rights (ICESCR 1966). Available online: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/cescr.aspx> (accessed on 22 June 2014).
6. Morsink, J. Two Years Had Lapsed Between the Establishment of the UN Commission of Human Rights and the Adoption of the Declaration, Which Was Signed Under the Shadow of no Less Than Eight Abstentions; In *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*; University of Pennsylvania Press: Philadelphia, Pennsylvania, 1999; p. 21.
7. Council of Europe. Available online: <http://www.coe.int/aboutCoe/index.asp?page=quisommesnous&l=en> (accessed on 22 June 2014).

8. United Nations Member States. Available online: <http://www.un.org/en/members/> (accessed on 22 June 2014).
9. World Bank GDP per Capita 2009–2013 Visual Map. Available online: http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD/countries/1W?order=wbapi_data_value_2011%20wbapi_data_value%20wbapi_data_value-last&sort=desc&display=map (accessed on 22 June 2014).
10. Charter of the Organisation of American States. Available online: http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm (accessed on 22 June 2014).
11. American Convention on Human Rights. Available online: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm (accessed on 22 June 2014).
12. The Irish Times: Microsoft Fights US Request for Irish-Held Data. Available online: <http://www.irishtimes.com/business/sectors/technology/microsoft-fights-us-request-for-irish-held-data-1.1884243> (accessed on 22 June 2014).
13. Van Dijk, J. *The Network Society*, 3rd ed.; Sage: London, UK, 2012; pp. 141–142.
14. Siapera, E. *Cultural Diversity and Global Media*; Wiley-Blackwell: Chichester, West Sussex, UK, 2010.
15. Tsimpourla, C. The Super-Law of the www: A Monster in Embryonic State? Available online: <http://cibusmentis.ie/2012/06/15/the-super-law-of-the-www-a-monster-in-embryonic-state> (accessed on 22 June 2014).
16. Tsimpourla, C. The Irish View on Defamation and the Internet: “Where Does Libel Occur”? Available online: <http://inform.wordpress.com/2013/12/18/the-irish-view-on-defamation-and-the-internet-where-does-libel-occur-clare-tsimpourla/> (accessed on 22 June 2014).
17. Microwave Transmission During the WWII. Available online: <http://rsnr.royalsocietypublishing.org/content/58/3/283.full.pdf> (accessed on 22 June 2014).
18. Ippolito, L.; Pelton, J.N. Satellite Technology: The Evolution of Satellite systems and Fixed Satellite Services. In *Communications Satellites: Global Change Agents*; Pelton, J.N., Oslund R.J., Marshall, P., Eds.; Lawrence Erlbaum Associates: New Jersey, USA, 2004; pp. 37–40.
19. The World’s First Smartphone was Nokia 9000 Communicator Connected for the First Time in Finland. Available Online: <http://press.nokia.com/1996/09/19/nokia-unveils-world%C2%92s-first-all-in-one-communicator-for-the-americas/> (accessed on 22 June 2014).
20. On the matter see the New 4G Connectivity and the Swift Launch of Compatible Devices. Available online: <http://consumers.ofcom.org.uk/what-is-4g/> (accessed on 22 June 2014).
21. Van Dijk, J. *The Network Society*, 3rd ed.; Sage: London, UK, 2012; pp. 98–99.
22. Azevedo, M.A. Social Media: The New Crime Fighting Tool. Available online: http://newsroom.cisco.com/feature/1289540/Social-Media-The-New-Crime-Fighting-Tool__ (accessed on 22 June 2014).
23. US National Security Council’s Strategy to Combat Transnational Organized Crime. Available Online: <http://www.whitehouse.gov/administration/eop/nsc/transnational-crime/strategy> (accessed on 22 June 2014).
24. Warren, S.D.; Brandeis, L.D. The Right to Privacy. *Harvard Law Review* **1890**, *IV*, No. 5. Available online: <http://faculty.uml.edu/sgallagher/Brandeisprivacy.htm> (accessed on 22 June 2014).

25. European Court of Human Rights Case Von Hanover v. Germany [2004] ECHR 294. Available online: <http://www.bailii.org/eu/cases/ECHR/2004/294.html> (accessed on 22 June 2014).
26. General Comment No.16 Issued by the Human Rights Committee in 1988. Available online: http://ccprcentre.org/doc/ICCPR/General%20Comments/HRI.GEN.1.Rev.9%28Vol.I%29_%28G.C16%29_en.pdf (accessed on 22 June 2014).
27. Van Dijk, J. *The Network Society*, 3rd ed.; Sage: London, UK, 2012.
28. Whitson, J.R. Gaming the quantified self. *Surveill. Soc. J.* **2013**, *11*, 163–176. Available online: <http://library.queensu.ca/ojs/index.php/surveillance-and-society/article/view/gaming/gaming> (accessed on 22 June 2014).
29. European Court of Human Rights Case. Informationsverein Lentia v. Austria [1994] 17 EHRR 93. Available online: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57854#{%22itemid%22:\[%22001-57854%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57854#{%22itemid%22:[%22001-57854%22]}) (accessed on 22 June 2014).
30. European Court of Human Rights Case. Groppera Radio AG v. Switzerland [1990] 12 EHRR 321. Available online: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57623#{%22itemid%22:\[%22001-57623%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57623#{%22itemid%22:[%22001-57623%22]}) (accessed on 22 June 2014).
31. UNHR's comment on Turkey's recent ban on certain social media Turkey: First Twitter, now YouTube—UN rights experts concerned at attempts to restrict access before elections. Available online: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14454&LangID=E> (accessed on 22 June 2014).
32. Smith, D.M. Porn Filters Block Sex Education Websites. Available online: <http://www.bbc.com/news/uk-25430582> (accessed on 22 June 2014).
33. Slattery, L. On the Proposed Parody Exception to Irish Copyright Law. Available online: <http://www.irishtimes.com/business/sectors/media-and-marketing/the-parody-exception-to-copyright-law-is-going-to-be-fun-1.1578289> (accessed on 22 June 2014).
34. Expressed in Art 20 UDHR. Available online: <http://www.un.org/en/documents/udhr/index.shtml#a20> (accessed on 22 June 2014).
35. Expressed in Art 11 ECHR. Available online: http://www.echr.coe.int/Documents/Convention_ENG.pdf (accessed 22 June 2014).
36. UN Human Rights Council in its Resolution 24/5, October 2013. Available online: <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx> (accessed on 22 June 2014).
37. OECD Guidelines for International Enterprises [II-1]. Available online: <http://www.oecd.org/daf/inv/mne/48004323.pdf> (accessed on 22 June 2014).
38. Frier, S. LinkedIn Expands To China With Local Website Limiting Content. Available online: <http://www.businessweek.com/news/2014-02-24/linkedin-expands-in-china-with-local-website-limiting-content> (accessed on 22 June 2014).
39. Parliamentary Assembly of the Council of Europe (COE) Recommendation for a White Paper. Available online: <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=20465&Language=EN> (accessed on 22 June 2014).
40. COE Conference on “Ensuring Our Rights on the Internet”, Graz 2014. Available online: http://www.coe.int/t/information/society/Config2014/default_en.asp (accessed on 22 June 2014).

41. Berners-Lee, T. On the 25th Anniversary of the Web, Let's Keep it Free and Open. Google Official Blog, 2014. Available online: <http://googleblog.blogspot.jp/2014/03/on-25th-anniversary-of-web-lets-keep-it.html> (accessed on 22 June 2014).
42. Internet Rights & Principles Coalition Charter. Available Online: <http://internetrightsandprinciples.org/wpcharter/> (accessed on 22 June 2014).
43. Association For progressive Communications (APC) Internet Rights Charter. Available online: http://www.apc.org/en/system/files/APC_charter_EN_0.pdf (accessed on 22 June 2014).
44. Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development Document A/HRC/20/L.13 p2. Available online: <http://www.regeringen.se/content/1/c6/19/64/51/6999c512.pdf> (accessed on 22 June 2014).
45. European Court of Human Rights case. Ahmet Yildirim v. Turkey (no.3111/10). Available Online: [http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-115705#{%22itemid%22:\[%22001-115705%22\]}](http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-115705#{%22itemid%22:[%22001-115705%22]}) (accessed on 22 June 2014).
46. Hamelink, C.J.; Hoffmann, J. The State of the right to communicate. *Glob. Media J.* **2008**, *7*, No.1. Available Online: <http://lass.purduecal.edu/cca/gmj/fa08/gmj-fa08-hamelink-hoffman.htm> (accessed on 22 June 2014).
47. Expressed in Art 26 UDHR. Available online: <http://www.un.org/en/documents/udhr/index.shtml#a26> (accessed on 22 June 2014).
48. Expressed in Art 2 Protocol 1952 UCHR. Available online: <http://conventions.coe.int/Treaty/en/Treaties/Html/009.htm> (accessed on 22 June 2014).
49. Expressed in Art 27 UDHR. Available online: <http://www.un.org/en/documents/udhr/index.shtml#a27> (accessed on 22 June 2014).
50. Expressed in Art 19 UDHR. Available online: <http://www.un.org/en/documents/udhr/index.shtml#a19> (accessed 22 June 2014).
51. Expressed in Art 10 ECHR. Available online: http://www.echr.coe.int/Documents/Convention_ENG.pdf (accessed on 22 June 2014).
52. Court of Human Rights Case X v. Sweden (3071/67). Available online: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-3041#{%22itemid%22:\[%22001-3041%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-3041#{%22itemid%22:[%22001-3041%22]}) (accessed on 22 June 2014).
53. WSIS Report 2010 on Expanding the Use of ICT in Developing Countries Where Telecommunications are Restricted Compared to Developed Countries, Where They Are in Abundance. Available online: http://www.itu.int/ITU-D/ict/publications/wtdr_10/index.html (accessed on 22 June 2014).
54. Chung, E. Rogers Throttling May Breach Net Neutrality Rules. Available online: <http://www.cbc.ca/news/technology/rogers-throttling-may-breach-net-neutrality-rules-1.1055349> (accessed on 22 June 2014).
55. World Summit on the Information Society, Geneva 2003 Action Plan; Document WSIS-03/GENEVA/DOC/5-E. Available Online: <http://www.itu.int/wsis/docs/geneva/official/poa.html> (accessed on 22 June 2014).
56. Halleck, T. Major Internet Service Providers Accused of Throttling Customer Traffic. Available online: <http://www.ibtimes.com/major-internet-service-providers-accused-throttling-customer-traffic-1580953> (accessed on 22 June 2014).

57. Webster, A. Major ISPs Accused of Deliberately Throttling Traffic. Available online: <http://www.theverge.com/2014/5/6/5686780/major-isps-accused-of-deliberately-throttling-traffic> (accessed on 22 June 2014).
58. US Supreme Court Case Pembina Consolidated Silver Mining Co. v. Pennsylvania 125 U.S. 181 (1888). Available online: <http://supreme.justia.com/cases/federal/us/125/181/case.html> (accessed on 22 June 2014).
59. US Supreme Court Case Pembina Consolidated Silver Mining Co. v. Pennsylvania 125 U.S. 181 (1888) 189. Available online: <http://supreme.justia.com/cases/federal/us/125/181/case.html> (accessed on 22 June 2014).
60. European Court of Human Rights Case Centro Europa 7 S.R.L. and Di Stefano v. Italy (38433/09). Available online: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-111399#%7B%22itemid%22:%5B%22001-111399%22%5D%7D> (accessed on 22 June 2014).
61. Declaration on the Establishment of a New International Economic Order A/RES/3201 (S-VI). Available online: <http://www.un-documents.net/s6r3201.htm> (accessed on 22 June 2014).
62. Charter of Economic Rights and Duties of States document A/RES/29/32/81. Available online: <http://www.un-documents.net/a29r3281.htm> (accessed on 22 June 2014).
63. McBeth, A. *International Economic Actors and Human Rights*; Routledge: Oxford, UK, 2009; pp. 272–280.
64. Anderson, G.W. Corporate Governance and Constitutional Law: A Legal Pluralist Perspective. In *Global Governance and the Quest for Justice: Corporate Governance, Volume II*; MacLeod, S., Ed.; Hart Publishing: Oregon, Portland, 2006; p. 28.
65. Guidelines adopted by the Organisation for Economic Co-operation and Development (OECD) in 2011. Available online: <http://www.oecd.org/daf/inv/mne/48004323.pdf> (accessed on 22 June 2014).
66. De Schutter, O. The Challenge of Imposing Human Rights Norms on Corporate Actors. In *Transnational Corporations and Human Rights*; De Schutter, O., Ed.; Hart Publishing: Portland, OR, USA, 2006; p. 10.
67. UN Global Compact. Available online: <http://www.unglobalcompact.org> (accessed on 22 June 2014).
68. Norms on the Responsibilities of TNCs and Other Business Enterprises with Regard to Human Rights E/CN.4/Sub.2/RES/2003/16. Available online: http://ap.ohchr.org/documents/F/SUBCOM/resolutions/E-CN_4-SUB_2-RES-2003-16.doc (accessed on 22 June 2014).
69. UN Code of Conduct for Transnational Corporations Halted. See analysis by Muchlinski, P. Attempts to Extend the Accountability of TNCs: The Role of UNCTAD. In *Liability of Multinational Corporations under International Law*; Kamminga, M., Zia-Zarifi, S., Eds.; Kluwer Law International: The Hague, Holland, 2000; pp. 97–117.
70. Report of the Special Representative of the Secretary document A/HRC/17/31. Available online: http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf (accessed on 22 June 2014).
71. Human Rights Watch; Ethiopia: Telecom Surveillance Chills Rights. Available online: <http://www.hrw.org/news/2014/03/25/ethiopia-telecom-surveillance-chills-rights> (accessed on 22 June 2014).
72. Nokia Siemens Press Statement August 23, 2011: Telecoms and Human Rights. Available online: <http://nsn.com/news-events/press-room/statements/telecoms-and-human-rights> (accessed on 22 June 2014).

73. Lau, A. Cisco Chief Urges Obama to Curb NSA Surveillance Activity. Available online: <http://www.reuters.com/article/2014/05/18/us-cisco-systems-nsa-idUSBREA4H0C720140518> (accessed on 22 June 2014).
74. December 29, 2013: Spiegel Online. Inside TAO: Documents Reveal Top NSA Hacking Unit. Available online: <http://www.spiegel.de/international/world/the-nsa-uses-powerful-toolbox-in-effort-to-spy-on-global-networks-a-940969.html> (accessed on 22 June 2014).
75. Gallagher, S. Photos of an NSA “Upgrade” Factory Show Cisco Router Getting Implant. Available online: <http://arstechnica.com/tech-policy/2014/05/photos-of-an-nsa-upgrade-factory-show-cisco-router-getting-implant> (accessed on 22 June 2014).
76. Overview on the Industry Dialogue. Available online: <http://www.telecomindustrydialogue.org/sites/default/files/Overview%20on%20ID%201%20July%202014.pdf> (accessed on 22 June 2014).

© 2014 by Clare Tsimpourla; licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/3.0/>).