
Primer on Researching **International Law to Advance Digital Rights**





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1. Introduction

Digital rights advocacy is on the rise in all parts of the world. Most activists working in-country on digital rights issues – those relating to online privacy, security, expression and other human rights – engage regularly with complex issues of law and policy that have significant consequences for the social, political and economic lives of their nations. Often, the domestic legal and policy frameworks at issue are underdeveloped, if they exist at all, making the advocates’ work especially challenging. Fortunately, digital rights activists anywhere in the world can draw on a particularly important resource: international human rights law. This legal framework is *transnational*: it is made up of binding rules as well as guiding principles that domestic digital rights activists everywhere can and should use in their advocacy. How to access this framework and make it work for you is the topic of this Primer.

The aim of this primer is to provide:

1. An introduction for advocates from the Americas, Africa and Asia to the international law framework applicable to promoting and protecting digital rights, in particular freedom of expression and privacy rights.

2. A guide to conducting legal research in support of digital rights locally, with an emphasis on the United Nations system and two regional human rights systems, namely, those operating under the auspices of the Organization of American States (OAS) and the African Union (but not the European human rights system).

3. A set of technical and strategic online resources for activists who seek additional support and/or guidance. It is to these advocates that the Primer will speak.

To round out this initial Part, and before turning to the international and regional human rights systems studied I will briefly explain *why* international law is important to digital rights advocacy. I will then outline a number of basic principles to provide guidance to activists both with and without legal training on *how* to effectively carry out and deploy their research on applicable human rights norms. This Introduction concludes with a roadmap for the remainder of the Primer, which will focus on reviewing the legal norms established by the selected human rights systems.



1.1 Why International Law?

Digital rights are part and parcel of human rights. In June 2012, the [UN Human Rights Council](#) (“HRC”) adopted its first [resolution](#) entitled “The promotion, protection and enjoyment of human rights and the Internet” (Res. 20/8, U.N. Doc. A/HRC/20/L.13). In that landmark decision, the Council recognized that “the same rights that people have *offline* must also be protected *online*, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice.” In other words, the normative framework that governs the promotion and protection of human rights in the physical world – international law – will apply to those same rights expressed in the digital sphere. In July 2018, the HRC adopted its [latest resolution](#) in the series that reaffirms and expands this core principle of digital rights.

When we talk about digital rights in the human rights context, we are talking about the ability of persons to use a computer, other electronic device or technology, or communications network to access the Internet and/or otherwise exercise their internationally recognized rights and freedoms in the digital realm, especially but not limited to freedom of expression and privacy rights. Other important norms include the principle of non-discrimination, the right to associate and assemble online, and basic due process protections for those aforementioned rights. Among the types of contemporary issues linked to one or more of these digital rights are the following:

- [Access to an Internet connection/Connectivity](#)
- [Censorship, filtering or blocking of online content](#)
- [Extremist or terrorist content online](#)

- Hate speech online
- Government surveillance and data collection
- Defamation and the criminalization of online expression
- Cyber-harassment and other types of cyber-violence
- Privacy and personal data online
- Identity disclosure laws/anonymity
- Access to information (public and private)
- The independence and diversity of digital media
- Network neutrality
- False or unverified information (“fake news”) and media manipulation

International law is central to most (if not all) human rights advocacy for a number of technical and strategic reasons. As a technical matter, it is the source of human rights law per se. States that ratify human rights treaties are legally bound to respect them. If your country has ratified one or more of the human rights treaties discussed in Parts II-IV below, it means you are on the strongest legal footing possible when formulating domestic and/or international claims under those treaties. The tactical pursuit of domestic and international legal remedies for abuses of fundamental rights is called [strategic litigation](#). Additional resources on this topic can be found in Part VI.

There are also strategic advantages to invoking international law under most circumstances. For example, even if your country is not a party to one or more of the treaties identified, invoking core human rights prin-

ciples reflected in the Universal Declaration of Human Rights to support your position can add moral weight and persuasiveness to your legal and policy arguments. Another advantage is that the pursuit of non-legal initiatives designed to impact law and policy makers – let’s call this strategic advocacy – will similarly benefit from the careful marshalling of international norms and practice; these may be adopted in tandem with strategic litigation initiatives or undertaken separately. Domestic decision-makers can be positively influenced by being exposed to international law perspectives, and/or learning about the comparative experiences of their counterparts working on the same issues in other countries.



1.2

Basic Principles of International Law

Although this Primer is not intended to be a course on international law or strategic litigation, there are a number of fundamental principles to keep in mind when researching international law generally, and human rights law in particular. These include the hierarchy of international law sources and the primacy of treaties; the applicability of international/human rights norms to your country; the applicability of international/human rights norms within your country; the responsibility of States under international law, including for the action of private actors; and the central role of domestic remedies in all rights-based advocacy. Each is briefly outlined below.

•Sources

International law emanates from a limited number of defined sources that include treaties – contractual agreements negotiated and subscribed by States – and customary international law, among other less prevalent forms. But treaties are the primary expression of international law, especially with respect to human rights. As such, they generally take precedence over other non-treaty sources of norms. For these reasons, this Primer will focus on examining the relevant treaty norms and their interpretation.

•Hard Law versus Soft Law

Any norm or set of rules emerging from one of the recognized sources of international law, especially treaties, is considered legally binding on States and thus “hard” law. All other declarations, principles, rules, and standards governing international relations which do not stem from one of these sources are deemed to be “soft” law. Both types of norms have a central role to play in digital rights advocacy. Soft law norms are important because “they can influence the actions of policymakers at the national level; contribute to norm-building in a range of international policy spaces; and inform a range of documents and guidelines.”¹A good example of in-

¹ Peter Micek, Saving the U.N. Resolution from Sharks Circling in Geneva (July 10, 2018), at <https://www.accessnow.org/saving-the-u-n-internet-resolution-from-sharks-circling-in-geneva/>.

fluent soft law are the resolutions adopted by the UN Human Rights Council on human rights and the Internet [see Part I(a)].

•*Rationae materiae* and *Rationae temporis*

States are legally bound only by the treaties they have ratified and only while those treaties are in effect. *Rationae materiae* means that claims against a State under a particular treaty can be made only if the treaty was ratified *and in force* at the time the abuse or conduct at issue occurred. *Rationae temporis* reflects the parallel principle that treaties once ratified generally cannot be applied retroactively. Advocates in practice must therefore confirm not just (1) *whether but also* (2) *when* their country has ratified a particular human treaty to determine if they are in a position to formulate legal claims under that treaty or invoke its protections prospectively.

•Monist versus Dualist States

The issue here is whether and to what extent international law in general, and treaty obligations in particular, are directly incorporated into a country's domestic legal system or not. This is usually a question of national constitutional law. States that are Monist formally permit their judicial and law enforcement authorities to enforce applicable norms of international law *directly*; this means that once a treaty is ratified, it can be enforced by national authorities without more. States that are Dualist will require some additional implementing legislation or executive action before the State's international treaty obligations can have domestic legal effect. There is also a hybrid model in which States allow for direct application of certain kinds of international duties – those in human rights treaties, for example – but not others.

•State Responsibility under International Law

It is well settled that States as a rule must do three things to comply with their human rights obligations. First, they must act in good faith to adopt the laws and

other measures necessary to implement and give effect to those human rights they are bound to respect. Second, they must ensure that their officials and agents do not violate human rights directly through their actions or omissions, and if they do, provide adequate and effective remedies for victims to redress those transgressions. And third, States have an affirmative duty to guarantee the enjoyment of human rights to all persons in their territory or under their jurisdiction, which means they must act diligently to prevent abuses by third parties (such as private Internet companies), and provide adequate and effective remedies whenever such private actor abuses occur.

•The Importance of Domestic Remedies in International Law

Domestic legal and political procedures should be the starting point in any effort to promote or protect digital/human rights, even when using international norms. This is because, assuming some rule-of-law in a given country, the domestic authorities are usually the best suited to protecting such rights and enforcing them. There are no coercive enforcement mechanisms at the supra-national level to ensure compliance with international law like those that exist within a State to police compliance with domestic law. Moreover, even if you could access international justice procedures like those described in the next three Parts, such procedures as a rule require that claimants have exhausted domestic remedies first *before* bringing a treaty-based claim or, barring a showing of utter futility, at least have tried to do so. Finally, even the most favorable decisions by any of the international justice procedures to be discussed must subsequently be recognized and implemented by domestic authorities to become effective.



1.3

How to Use This Primer

The remainder of this Primer is organized into five Parts. Part II will highlight the primary norms, sources and mechanisms from the United Nations human rights system that speak to digital rights issues. Parts III and IV will do the same for the Inter-American and African human rights systems, respectively. Periodically I will introduce select hot-button issues that relate to the rights and/or regions under discussion.

These are the importance of promoting Internet access, or “connectivity”; the role of ICT companies in protecting privacy; the significance of media diversity to digital rights; and government sponsored network disruptions. Part V is comprised of a “Practice Scenario,” a sample problem accompanied by a checklist of general research questions designed to guide activists facing a similar set of issues in any context. This Part offers an opportunity to apply many of the key concepts introduced in the prior ones. Finally, Part VI provides a bibliography of Internet resources including, but not limited to, those already linked to throughout the text. As noted already, this text is intended to be used *interactively*. All sources are hyperlinked to allow for immediate and easy consultation (assuming a good Internet connection).



2.

The Universal Human Rights System (United Nations)

Depending on what part of the world you live in, and what human rights treaties your country has ratified, you will have access to a range of [international norms](#) and procedures that apply directly to digital rights activism. The most widely applicable human rights system is that set up under the **United Nations** and administered by the [Office of High Commissioner for Human Rights](#) (OHCHR). It operates in all regions of the world: Asia, Africa, the Americas, and Europe. It coexists in parallel to the regional human rights systems of Africa, the Americas and Europe, and is frequently utilized by advocates in tandem with regional norms and procedures.

The [website](#) of the OHCHR is a comprehensive resource for accessing all UN human rights-related treaties, standards, documentation, and information. You should become familiar with it if you haven't already. Unless noted otherwise, all links cited in Part II are from that website. In this second Part, we will be focusing on the norms and mechanisms most relevant to promoting and protecting digital rights within the UN human rights regime.

The “universal” human rights system is made up of the various United Nations human rights bodies that monitor

States' compliance with UN human rights treaties and related standards. The primary UN treaty for our purposes is the [International Covenant on Civil and Political Rights](#) (ICCPR), which has been ratified by most, but not all, of the countries in the world (170 at last count). [The Universal Declaration on Human Rights](#) (“UDHR”) is another very important text. Although not a treaty, the UDHR's stature and influence certainly rival that of one. It is especially relevant in the UN Member States that have not ratified the ICCPR, such as Malaysia, because it operates as the applicable rights-based framework for advocates to invoke. Together these two international instruments are the normative foundation of the UN human rights regime as it relates to digital rights.

At the same time, there are several [bodies and mechanisms](#) that monitor States' compliance with UN human rights treaties and standards. The most important for our purposes are the [Special Procedures](#) of the [Human Rights Council](#), and the [treaty-monitoring body](#) known as the [Human Rights Committee](#), which oversees compliance with the ICCPR specifically. We should note that the official name of this Committee is the Committee on Civil and Political Rights, or “CCPR.” For more informa-

tion on the UN's treaty body system generally, and the Human Rights Committee/CCPR in particular, see this [guide](#) published by the [International Service for Human Rights](#), a Geneva-based NGO established to assist human rights advocates seeking to access the UN human rights system.

With respect to the Special Procedures of the Human Rights Council, we are most interested in the [Special Rapporteur on the right to opinion and freedom of expression](#), on the one hand, and the [Special Rapporteur on the right to privacy](#), on the other. Special rapporteurs like these are known as *thematic* rapporteurs: they are independent experts appointed by the Council to examine and report upon particular human rights issues wherever they occur in the world.

In the UN system, there are two main sources of institutional or “official” interpretation that advocates should consult to gain a better understanding of the scope and import of a human rights treaty like the ICCPR. The first are the [General Comments](#) issued by the corresponding treaty-monitoring body, in this case the “CCPR” or Human Rights Committee. General Comments (“GC”) function as advisory opinions intended to orient States and advocates in the proper interpretation of the underlying treaty.

The second source of interpretative guidance are the [thematic reports](#) submitted annually to the Human Rights Council or General Assembly by the Special Rapporteurs (and other special procedures). Both sets of documents – the GC and thematic reports – are authoritative sources when it comes to explaining the content and scope of ICCPR provisions, although the General Comments tend to carry more legal weight

than the reports of the Special Rapporteurs. This is because the Human Rights Committee is set up as a quasi-legal monitoring body in the text of the ICCPR itself (see [ICCPR Part IV](#)).

Below is an outline of the primary norms, sources and information relating to freedom of expression, privacy, and non-discrimination rights in the United Nations system. Where helpful, I will describe in more detail how the different rules, procedures and mechanisms interact. A more in-depth understanding of this dynamic will require the reader to delve into the source material indicated.



2.1 Freedom of Expression

2.1.1 Universal Declaration of Human Rights

UDHR Art. 19: 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.

2.1.2 Treaty Law – International Covenant on Civil and Political Rights

Article 19

- Everyone shall have the right to hold opinions without interference.
- Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - For respect of the rights or reputations of others.
 - For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

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

2.1.3 Treaty and Norm Interpretation

UN Human Rights Committee General Comments:

- General Comment No. 34 – Freedoms of Opinion and Expression
- General Comment No. 11 – Article 20

It is impossible to overstate the significance of General Comments when interpreting the provisions of the ICCPR in any context. They provide the most authoritative technical/legal explanation of how best to interpret and apply the pertinent treaty norms. With respect to freedom of expression online, GC 34 is of paramount importance not only because it identifies and defines the constituent elements of that right – rights to seek, receive and disseminate information generally; media rights and diversity; and access to information held by public authorities – but also because it explains in more detail the functioning of the exceptions regime established in paragraph three of Article 19. Article 19 paragraph 3 outlines the parameters within which States can legitimately restrict their citizens' exercise of freedom of expression in any situation. Similarly, GC 11 clarifies the duty established in ICCPR Art. 20 to prohibit war

propaganda and the incitement to violence on racial or religious grounds in light of Art. 19's protections.

Relevant Thematic Reports of the Special Rapporteur on Freedom of Opinion and Expression to the Human Rights Council (unless otherwise indicated):

- Report on content regulation online (2018)
- Report on the role and regulation of digital access providers (2017)
- Report to the General Assembly on contemporary challenges to freedom of expression (2016)
- Report on freedom of expression, states and the private sector in the digital age (2016)
- Report on the use of encryption and anonymity in the digital age (2015)
- Report on the right of children to freedom of expression (2014)
- Report on impact of States' surveillance of communications on the rights to privacy, opinion and expression (2013)
- Report to the General Assembly on hate speech and incitement to hatred (2012)
- Report on the protection of journalists and media freedom (2012)
- Report to the General Assembly on the right to freedom of opinion and expression exercised through the Internet (2011)

- [Report on key trends and challenges to exercising freedom of expression on the Internet \(2011\)](#)

These reports by the UN Special Rapporteur on the right to freedom of opinion and expression are essential reading for digital rights advocates anywhere in the world. Taken together, they address all of the contemporary issues identified in the Introduction to some degree, making them a starting point for strategic advocacy efforts around freedom of expression and related topics. Though limited in length by UN regulations, these reports do a great job of explaining how the primary challenges to freedom of expression in the digital arena should be analyzed under international law. Contact information for the Special Rapporteur is available on the UN [website](#).

The Special Rapporteur from 2008 to 2014 was Frank LaRue (Guatemala), one of the first UN experts to systematically analyze how traditional human rights norms were to be adapted to such challenges taking place in the digital sphere. In his reports, LaRue laid the foundation for a better understanding of how States must respect and protect freedom of expression and privacy online; he did so by exploring the various implications for free speech of State censorship, surveillance and regulation of the Internet. Starting in 2014, David Kaye (USA) carried LaRue's initiative forward, not least by expanding the scope of inquiry to study more extensively the role of private actors in realizing, or curtailing, human rights online, in particular those actors operating in the Information, Technology and Communication (ICT) sector.

- [Relevant Case Views of the UN Human Rights Committee](#)

In addition to the GC, another way to see how the Human Rights Committee interprets and applies Articles 19 and

20 (or any other articles) of the ICCPR is to review its decisions in contentious cases adjudicated under the [First Optional Protocol](#) to the ICCPR. These decisions, called "Views" in UN parlance, are compiled as jurisprudence in a searchable "[Treaty Body Database](#)." This database contains all public documents adopted or received by the human rights treaty bodies, including the Committee on Civil and Political Rights ("CCPR"), which, as noted, is the official name of the Human Rights Committee for purposes of referencing official UN documents. The Treaty Body Database allows you to search for jurisprudence by treaty body, country, region and date range, or any combination of these, but not by article or issue per se. Contact information for the Human Rights Committee is available on the UN [website](#).

2.1.4 Soft Law Standards

- [UN Guiding Principles on Business and Human Rights \(2011\)](#)

- [Joint Declaration on Freedom of Expression and the Internet \(2011\)](#)

- [Joint Declaration on Crimes against Freedom of Expression \(2012\)](#)

- [Joint Declaration on Surveillance Programs and their Impact on Freedom of Expression \(2013\)](#)

- [Joint Declaration on Freedom of Expression, "Fake News", Disinformation and Propaganda \(2017\)](#)

- [Joint Declaration on Media Independence and Diversity in the Digital Age \(2018\)](#)

These standards have been and will continue to be highly influential sources with respect to the formation and interpretation of relevant norms in the human rights systems under study. In particular, the joint declarations issued by international experts from all the major transnational human rights systems (UN, Europe, Americas, and Africa) attest to the universality of the shared values to be protected. Consequently, these standards can be invoked in support of advocacy campaigns on digital rights issues anywhere in the world as evidence of what freedom of expression means in diverse contexts. Likewise, the UN Guiding Principles have been enormously influential in shaping the way state and non-state actors approach the critical question of private enterprise's role in respecting human rights. In the digital sphere, for example, the [Ranking Digital Rights](#) ("RDR") initiative publishes an annual report assessing the world's major ICT companies' compliance with human rights principles: the [Corporate Accountability Index](#). Freedom of expression is an integral part of the study, as are privacy rights. This is due in no small part to the fact that RDR's Index is built on an innovative methodology that is substantially based on the UN Guiding Principles' framework.

2.1.5 ISSUE: Freedom of Expression and Access to an Internet Connection ("Connectivity")

In modern times, it is difficult to overstate the central role that connectivity plays in the realization of human rights. In today's interconnected world, ensuring access to the Internet is integral to realizing freedom of expression. Put simply, States cannot fully meet their duty to respect the right to freedom of expression un-

less they strive diligently to guarantee all people within their territory access to "the means necessary to exercise this right, which includes the Internet."² For this reason, the Human Rights Committee has called upon States to take "all necessary steps" to ensure access to the Internet and other "new media" in their territory.³ In fact, these days connectivity is required not just to ensure fulfilment of the right to freedom of expression. It is also essential to the progressive realization of other fundamental rights, "such as the rights to education, health care and work, the right to assembly and association, and the right to free elections."⁴

2 See Report to the General Assembly of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue (2011), para 61, at http://ap.ohchr.org/documents/dpage_e.aspx?si=A/66/290

3 Human Rights Committee General Comment 34, para. 15, at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f34&Lang=en

4 Joint Declaration on Freedom of Expression and Internet (2011), para 6(a), at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=849&IID=1>



2.2 Privacy Rights

2.2.1 Universal Declaration of Human Rights

UDHR Art. 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

2.2.2 Treaty Law – International Covenant on Civil and Political Rights

Article 17

- No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
- Everyone has the right to the protection of the law against such interference or attacks.

2.2.3 Treaty and Norm Interpretation

UN Human Rights Committee General Comments:

- General Comment No. 16 – Article 17 (Right to Privacy)

As noted already, it is impossible to overstate the significance of General Comments when interpreting the provisions of the ICCPR in any context. With respect

to privacy rights, GC 16 is of important because it fleshes out the terminology - what constitutes “unlawful” or “arbitrary” or “interference”? – as well as the protective scope of Article 17 and its limitations.

Thematic Reports of the UN Special Rapporteur on the Right to Privacy:

- [Report on surveillance and privacy \(2018\)](#)

- [Report on metadata and open data \(2017\)](#)

These reports by the UN Special Rapporteur on the right to privacy, along with those produced by the OHCHR discussed in the next section, are essential reading for digital rights advocates anywhere in the world. Recall also that the 2013 report by the Special Rapporteur on freedom of opinion and expression contains an important analysis of surveillance and privacy issues. Taken together, these expert studies address all the contemporary challenges to online privacy rights identified in the Introduction, making them a starting point for any strategic advocacy efforts in that respect. Though limited in length by UN regulations, these reports lay the groundwork for how one should analyze privacy rights under international law. Contact information for the Special Rapporteur is available on the UN [website](#).

Reports of the Office of the High Commissioner for Human Rights (“HCHR”):

- [Report on the right to privacy in the digital age \(2014\)](#)

In December 2013 the UN General Assembly (“GA”) adopted a [resolution](#) charging the HCHR with prepar-

ing a report on [the right to privacy in the digital age](#) to examine this right “in the context of domestic and extraterritorial surveillance and/or the interception of digital communications and the collection of personal data, including on a mass scale.” In addition to leading to the publication of the 2014

HCHR report linked above, this process laid the groundwork for the creation in 2015 of the office of the Special Rapporteur on the right to privacy. Even so, the HCHR continues to implement the mandate it received from the GA and the Human Rights Council in this area. In 2017, the Office of the HCHR issued a public call for submissions on a range of [key human rights](#) challenges to the right to privacy in the digital age, emphasizing the need to identify and develop principles, standards and best practices with regard to that right. The submissions will be input for a second HCHR report forthcoming in late 2018. Contact information for the Office of the High Commissioner is available on its general [website](#).

- [Relevant Cases of the UN Human Rights Committee](#)

In addition to the GC, another way to see how the Human Rights Committee interprets and applies Article 17 of the ICCPR is to review its decisions in contentious cases adjudicated under the [First Optional Protocol](#) to the ICCPR. These decisions or “Views” are compiled as jurisprudence in the searchable “[Treaty Body Database](#)” introduced above. As noted, this database contains all public documents adopted or received by the Committee on Civil and Political Rights (“CCPR”), which is the name of the Human Rights Committee for purposes of document searches on the database. It allows you to search by treaty-monitoring

body, region, and/or country, but not by article or issue. Contact information for the Human Rights Committee is available on its [website](#).

2.2.4 Soft Law Standards

• UN Guiding Principles on Business and Human Rights (2011)

As highlighted already, the UN Guiding Principles have been enormously influential in shaping the way state and non-state actors approach the critical issue of private enterprise's role in respecting human rights. In the digital sphere, for example, the Ranking Digital Rights ("RDR") initiative publishes an annual report assessing the world's major ICT companies' compliance with human rights principles: the Corporate Accountability Index. Privacy rights are in integral part of the study, as is freedom of expression. This is due in no small part to the fact that RDR's Index is built on an innovative methodology that is substantially based on the UN Guiding Principles' framework.

2.2.5 ISSUE: ICT Companies/ Third Parties and Privacy

The pressing question in the wake of numerous scandals involving Internet company platforms' misuse of customer data (e.g. Cambridge Analytica) is this: what is -- and what should be -- the responsibility of ICT companies for users' privacy rights? Several of these companies including Facebook, Google and Microsoft have joined the [Global Network Initiative](#), a multi-stakeholder organization whose company mem-

bers are committed to respecting privacy rights as well as freedom of expression. But industry self-regulation does not appear to be sufficient. Under international law, the right to privacy must be protected against all unlawful and arbitrary interferences, whether they emanate from State authorities or *from natural or legal persons*, including business enterprises.⁵ If you recall that States have a duty to protect persons from the abusive conduct of private third parties that impairs their ability to exercise or enjoy human rights, this raises critical questions about when and how States should regulate ICT company conduct to prevent or redress such abuses. For this reason, the role of private corporate actors has become a focal point in several of the Special Rapporteurs' recent thematic reports, as well as a central challenge targeted in the forthcoming report by the High Commissioner.

⁵ Human Rights Committee General Comment 16, para.1, at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6624&Lang=en.



2.3 Non- discrimination

2.3.1 Universal Declaration of Human Rights

UDHR Art. 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2.3.2 Treaty Law – International Covenant on Civil and Political Rights

Article 2 (1)

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2.3.3 Treaty and Norm Interpretation

UN Human Rights Committee General Comments:

- [General Comment No. 18 – Non-discrimination](#)

Non-discrimination is a first-order principle of international human rights law. Anti-discrimination norms are at the core of every universal and regional human rights treaty in force today. GC 18 describes how this principle should be interpreted and applied in practice, as well as the limited circumstances under which it can be curtailed. It is important for several reasons. First, as per ICCPR Art. 26, non-discrimination as equality before the law is a stand-alone or “autonomous” right in and of itself. Second, as per ICCPR Art.2(1), all other human rights in the Covenant, including those to freedom of expression and privacy, must be read in light of it. In other words, the duty incumbent on States to guarantee the enjoyment of human rights requires that it do so in non-discriminatory manner. Finally, this same duty also requires States to ensure that private third parties do not act to deny anyone the enjoyment of any of the rights in the ICCPR due to discrimination.

- [Relevant Cases of the U.N. Human Rights Committee](#)

In addition to the GC, another way to see how the Human Rights Committee interprets and applies Articles 2 and 26 of the ICCPR is to review its decisions in contentious cases adjudicated under the [First Optional Protocol](#) to the ICCPR. These decisions or “Views” are compiled as jurisprudence in the searchable [“Treaty](#)

[Body Database](#)” introduced above. As noted, this database contains all public documents adopted or received by the Committee on Civil and Political Rights (“CCPR”), which is the name of the Human Rights Committee for purposes of document searches on the database. It allows you to search by treaty- monitoring body, region, and/or country, but not by article or issue. Contact information for the Human Rights Committee is available on its [website](#).

3.

The Inter-American Human Rights System

For most countries in the Western Hemisphere who are members of the **Organization of American States** (OAS), the [Inter-American human rights system](#) is the relevant regional counterpart. It is comprised of the [Inter-American Commission on Human Rights](#) (“IA Commission” or “IACHR”), and the [Inter-American Court of Human Rights](#) (“IA Court”). The primary treaty in this system for our purposes is the [American Convention on Human Rights](#) (ACHR), which the IA Commission and Court combine to oversee. A key mechanism for the promotion and protection of digital rights in the region of the Americas is the [OAS Special Rapporteur for Freedom of Expression](#). Among other important sources relied upon by the IACHR and the Special Rapporteur are the [American Declaration on the Rights and Duties of Man](#) (ADRDM), and the [Declaration of Principles on Freedom of Expression](#). OAS Member States that have not ratified the American Convention can nonetheless be held to account using the American Declaration. You can find information on how to submit a petition under the ACHR or the ADRDM on the [website](#) of the IA Commission, as well as in Part VI of this Primer.

Below is a summary of the primary norms, sources and information relating to freedom of expression, privacy, and related human/digital rights from the Inter-American system. The OAS system is different from the UN in a number of respects that will affect how the pertinent information below is presented. On the one hand, it is a less complex system; for example, it does not have a separate mechanism or procedure to address privacy rights in the way the UN does. On the other, the OAS boasts the Inter-American Court of Human Rights as its maximum adjudicatory body, which has no direct corollary in the UN human rights system. For these reasons, after identifying the relevant legal norms, I will focus on the introducing the key sources, procedures, and jurisprudence of the OAS system, while highlighting the freedom of expression and privacy elements in relation to each those.



3.1 Inter-American Norms on Freedom of Expression and Privacy

3.1.1 Treaty Law – American Convention on Human Rights

Freedom of expression

Article 13

Freedom of Thought and Expression

- Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
- The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals.
- The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

- Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.

- Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

Privacy Rights

Article 11

Right to Privacy

- Everyone has the right to have his honor respected and his dignity recognized.
- No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.
- Everyone has the right to the protection of the law against such interference or attacks.

Non-discrimination

Article 1(1)

Obligation to Respect Rights

The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

Article 24

Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

3.1.2 American Declaration on Rights and Duties of Man

Article IV.

Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

Article V.

Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.

Article IX.

Every person has the right to the inviolability of his home.

Article X.

Every person has the right to the inviolability and transmission of his correspondence.

Article II.

All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

• Joint Declaration on Surveillance Programs and their Impact on Freedom of Expression (2013)

• Joint Declaration on Freedom of Expression, “Fake News”, Disinformation and Propaganda (2017)

• Joint Declaration on Media Independence and Diversity in the Digital Age (2018)

3.1.3 Soft Law Standards

• Declaration of Principles on Freedom of Expression (2000)

• Joint Declaration on Freedom of Expression and the Internet (2011)

• Joint Declaration on Crimes against Freedom of Expression (2012)



3.2 OAS Special Rapporteur on Freedom of Expression

The Office of the Special Rapporteur on Freedom of Expression of the Inter-American Commission (“OAS Special Rapporteur”) is the OAS mechanism most actively engaged with digital rights issues and the regional standards that apply to them. Despite its title, this mechanism’s engagement is not strictly limited to purely freedom of expression matters. The OAS Special Rapporteur’s work includes significant coverage of privacy rights as well, for two reasons: (1) because the nexus between such rights and freedom of expression is strong; and (2) because, unlike the UN, there is no other specialized procedure or focus on privacy in the OAS system to date. Thus, for example, the Rapporteurs latest publication on human rights standards for the Internet (see below) includes an entire chapter dedicated to the protection of privacy rights online. Contact information for the Special Rapporteur is available on the OAS [website](#).

The [homepage](#) of the OAS Special Rapporteur is also a one-stop resource for the standards, jurisprudence and practice of the IA system relating to human rights on the Internet generally, and to freedom of expression in particular. The best way to access this information is to start by studying the OAS’ Rapporteur’s most recent publications on human rights, the Internet, and “new media,” discussed below. These will outline how the IA Court and Commission have ruled in traditional freedom of expression cases and explain the legal framework in place. The same approach applies to understanding privacy rights in the Americas. Put simply, the conventional jurisprudence of the IA Court and, to a lesser extent, that of the Commission, provide authoritative guidance when it comes time to analyze legal questions involving digital rights under

the American Convention and Declaration. The most direct way to identify and access that jurisprudence is through the relevant reports of the Special Rapporteur.

3.2.1 Relevant Reports of the OAS Special Rapporteur on Freedom of Expression:

- [Standards for a Free, Inclusive, and Open Internet \(2016\)](#)
- [Freedom of Expression and Internet \(2013\)](#)
- [The Inter-American Legal Framework Regarding the Right to Freedom of Expression \(2009\)](#)

These reports by the OAS Special Rapporteur are essential reading for digital rights advocates in the Americas. They should also be of great interest to activists from other regions who seek a well-developed comparative law and policy perspective on the issues. These studies are naturally centered on the interpretation of the American Convention, American Declaration, and other OAS standards listed above. But they draw input and inspiration from other transnational systems (especially the UN and European ones), as well as domestic legal sources from the region, to fashion a uniquely Inter-American framework for dealing with the contemporary challenges to digital rights identified in the Introduction. One advantage these OAS reports have over the corresponding publications in the UN system is that they are not subject to strict restrictions on length, which allows the OAS Rapporteurs to go into much more depth in the analysis of the topics addressed than their UN counterparts can.

In particular, the 2016 report by the OAS Special Rapporteur on standards for a free, inclusive and open Internet is especially noteworthy due to its comprehensiveness and rigor. In addition to deep dives on freedom of expression and privacy rights online, including personal data protection, this report covers virtually every other digital rights topic one can think of in some detail. For example, it tackles complex discussions of connectivity and universal access; network neutrality; media diversity; equal protection and non-discrimination; access to public information; and Internet governance principles, among others. In so doing, the OAS Rapporteur builds substantially on the groundwork laid in the prior report from 2013 on freedom of expression and Internet. The 2016 report is thus a definitive attempt at standard-setting regarding digital rights in the Americas and elsewhere.



3.3 Jurisprudence of the IA Court and Commission on Human Rights

As noted already, the best way to access the jurisprudence of the Inter-American Court and Commission most relevant to freedom of expression, privacy and Internet is to review the secondary sources compiled by the OAS Special Rapporteur, starting with the 2016 report on human rights and Internet. The Rapporteur also has a website [page dedicated to the freedom of expression and Internet](#), along with other topics, that contains helpful videos and links.

Other online resources exist to facilitate access to information generally, but they are not as complete or useful as one would hope. For example, the IA Court website has an online [jurisprudence finder](#) that allows you to search the Court's archive of cases, but primarily by country, date, and/or document type. One cannot search it by American Convention article or human rights issue. The IA Commission [website](#) permits you to search its database of pronouncements, including [merits reports](#), by date or by country by clicking on "Cases" from the main menu header at any time. It is also possible in principle to search the site using key words, which may help focus in on specific treaty articles, topics and sources, though its functionality and comprehensiveness should not be presumed. Contact information for the IA Court and Commission are available on their respective websites.

The [Center for Justice and International Law](#) ("CEJIL"), a regional NGO, has created an alternate resource, the Inter-American Human Rights System ("[IAHRS](#)") Online, that allows you to search a number of select OAS documents from both the IA Court and the Commission. The challenge with this database, aside from not being comprehensive, is that it allows you to search mainly by country, date, case or document name, and/or issuing

body, but not by ACHR article or human rights issue. As is the case with the IA Court's jurisprudence finder, then, this tool is helpful if you have already identified a judgment or other document you wish to access in the original, but less so if you are doing open ended research on a given digital rights issue.

A better approach to researching jurisprudence is to first review the OAS Rapporteur's [2009 report](#) on the Inter-American legal framework regarding freedom of expression, and then update that report with the most recent cases and decisions from the [IA Court](#) and [IA Commission](#). The Office of the Rapporteur has helpfully compiled this information and made it available on the [website](#) under the header "Jurisprudence." Interestingly, the compilation of IA Commission decisions found there is organized by topic as well as document type. If you look at the sources by [topic](#), this means you can search for Commission cases and statements relating to: "Violence, Threats and Hostilities against Members of the Media;" "Subsequent Imposition of Sanctions due to Expression;" "Direct and Indirect Censorship;" and "Access to Information." The corresponding [compilation](#) of recent decisions by the IA Court on the Rapporteur's website, however, has no such organization. Rather, it is a chronological listing of the Court's pronouncements divided into three main document types: merits judgements; advisory opinions, and provisional measures.

3.3.1 The Issue of Media Pluralism/Diversity Online

Media diversity generally has a number of interconnected dimensions that become paramount when ex-

pressed in the digital realm. These include ensuring that there is a plurality of "voices" in terms of outlets and information sources, as well as a diverse range of opinions emanating from those sources. The latter dimension refers to "the degree to which [a variety of] opinions are represented in the media."⁶ From a human rights perspective, governments are obligated to promote media pluralism and diversity "to protect the rights of media users [...] to receive a wide range of information and ideas,"⁷ without which democratic discourse would not be possible. In addition to conventional government efforts to control sources and silence or censor opinions, media plurality and diversity are similarly threatened when there is "undue media dominance or concentration by privately [or State] controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views."⁸ As noted by the OAS Special Rapporteur, "[m]aximizing the number and diversity of voices that are able to participate in the public debate [requires] robust guarantees of the exercise of freedom of expression through the Internet[.]"⁹ Said another way, where media pluralism and diversity online are undermined by government or private actors, so too is freedom of expression.

6 Reporters Without Borders, 2017 World Press Freedom Index Detailed Methodology: Criteria Categories and Indicators, <https://rsf.org/en/detailed-methodology>

7 UN Human Rights Committee General Comment No. 34, para. 14, at https://tbinternet.ohchr.org/_layouts/treaty-bodyexternal/Download.aspx?symbolno=CCPR%2fC%2fG-C%2f34&Lang=en

8 Ibid, para 40.

9 OAS Special Rapporteur for Freedom of Expression, Freedom of Expression and the Internet (2013), para 18, at http://www.oas.org/en/iachr/expression/docs/reports/2014_04_08_Internet_ENG%20_WEB.pdf.

A background image showing a crowd of people with their hands raised, overlaid with a blue gradient. The image is used as a header for the section.

4.

The African Human Rights System

The [African human rights system](#) was created under the auspices of the [African Union](#) (AU). It is comprised in relevant part of the [African Commission on Human and Peoples' Rights](#) (African Commission or "ACHPR") and the [African Court on Human and Peoples' Rights](#) ("African Court"). The primary regional treaty for our purposes is the [African Charter on Human and Peoples' Rights](#) (ACHPR), which the African Commission and the Court combine to oversee. Another key regional instrument for our purposes is the [Declaration on Freedom of Expression Principles in Africa](#). Like in the UN and OAS systems, there is a mechanism dedicated to freedom of expression: the [Special Rapporteur on Freedom of Expression and Access to Information](#) ("AU Special Rapporteur").

For guidance on how to access and advocate before the African human rights system, consult this [manual](#) by the [International Justice Resource Center](#), a non-profit that provides resources to advocates seeking access to justice at a transnational level.

Below is a summary of the primary norms, sources and information relating to freedom of expression, privacy, and related human/digital rights from the African system.



4.1 African Regional Norms on Freedom of Expression

4.1.1 Treaty Law – African (Banjul) Charter on Human and Peoples’ Rights

Freedom of expression

Article 9

- Every individual shall have the right to receive information.
- Every individual shall have the right to express and disseminate his opinions within the law.

Non-discrimination

Article 2

- Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

- Every individual shall be equal before the law.
- Every individual shall be entitled to equal protection of the law.

It must be noted here that the African Charter does not include privacy expressly among the human rights protected.

4.1.2 Soft Law Standards

- Joint Declaration on Freedom of Expression and the Internet (2011)
 - Joint Declaration on Crimes against Freedom of Expression (2012)
 - Joint Declaration on Freedom of Expression, “Fake News”, Disinformation and Propaganda (2017)
 - Joint Declaration on Media Independence and Diversity in the Digital Age (2018)
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4.2 AU Special Rapporteur on Freedom of Expression and Access to Information

The AU Special Rapporteur has collaborated actively with its counterparts in the UN, OAS and Europe to issue the digital-rights specific joint declarations listed above; as noted already, these have been instrumental in filling out the international legal framework under development with respect to human rights and Internet. Unlike those counterparts, however, the AU Rapporteur has not yet published an Internet-specific study on these issues in Africa or any similar thematic reports. Contact information for the Special Rapporteur can be found on the AU Commission website.

For the time being, the question of digital rights in the region is being most actively examined by civil society organizations (“CSO”), such as the Paradigm Initiative Nigeria and CIPESA (Collaboration on International ICT Policy in East and Southern Africa). Most notably, these CSOs together with others from the region, have produced the African Declaration on Internet Rights and Freedoms, an attempt by African civil society organizations and international NGOs like Article 19 to drive more enlightened standard setting in the region. Accordingly, for instance, one of the digital rights principles promoted by this non-governmental African Declaration is that of the need to protect privacy and personal data, which does not appear in the Banjul Charter.



4.3

Jurisprudence of the African Court and Commission on Human and Peoples' Rights

It is fairly straightforward to research decisions of the African human rights system online. Pronouncements of the African Commission regarding the communications (complaints) received can be searched on the Commission website, [here](#). It is possible to search by article “violated” of the Banjul Charter, as well as by type of document and by country. The African Court similarly offers researchers the ability to access its case law on its website by pulling up the lists of its past judgements, as well as recent and pending cases. However, there does not appear to be a way to search by Banjul Charter article or human rights issue on the Court’s website.

Fortunately, there is a good alternative. The Case Law Analyzer of the Institute for Human Rights and Development in Africa (IHRDA) is an excellent resource that compiles decisions from a variety of supra-national bodies in Africa, including but not limited to the African Commission and Court together. There are multiple ways to search for jurisprudence, including by mechanism, country, articles of the Banjul Charter violated, and key words (issues). Clicking through the key word “Freedom of expression,” for example, pulls up a list of pertinent African Court judgments, African Commission decisions, and other sources. There is no key word for privacy, though, probably because no formal legal standard exists in Africa yet for that right. On the whole, the Case Law Analyzer webpage is easier to navigate, better configured, and more productive in terms of search results than the search pages on the African Court and Commission websites, where it is linked to and featured as an additional resource.

4.3.1 The Issue of Network Disruptions/Internet Shutdowns

As connectivity increases in the developing world, so too have government efforts to disrupt or curtail Internet access. “The most common objective of this kind of interference is to restrict the flow of information through digital channels, particularly social media, mobile communication, and dedicated digital communication tools [like WhatsApp]. This is especially prevalent when rising public dissent and protests are deemed to be fueled by digital communication networks.”¹⁰ These network disruptions can be local, regional or otherwise focused on certain groups of citizens. In extreme cases, authorities may shut down the Internet through most or all of the country. These extreme forms of network disruption are referred to as Internet “blackouts” or shutdowns. The human rights impact of such disruptions -- not to mention the social, political and economic costs -- can be massive, leading the UN Human Rights Council in 2016 to “unequivocally condemn[...] measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law and [to] call[...] on all States to refrain from and cease such measures.”¹¹ Though such disruptions are currently more prevalent in other regions of the world, researchers have observed that “[f]or many African countries, Internet shutdowns are becoming the most preferred control mechanisms governments are using to curtail the right to freedom of expression and access to information online.”¹²

10 Jan Rydzak, Global Network Initiative, *Disconnected: A Human Rights Based Approach to Network Disruptions*, (2018), p.6, at https://globalnetworkinitiative.org/gin_tnetnoc/uploads/2018/06/Disconnected-Report-Network-Disruptions.pdf.

11 UN Human Rights Council, *Resolution on the promotion, protection and enjoyment of human rights on the Internet*, 27 June 2016, A/HRC/32/L.20, para 10, at <http://undocs.org/A/HRC/32/L.20>.

12 Collaboration on International ICT Policy for East and Southern Africa (CIPESA), *State of Internet Freedom in Africa 2016*, September 2016, p.6, at https://cipesa.org/?wpfb_dl=225.



5. Practice Scenario

For purposes of this exercise, assume to the extent possible that the fictional country of Gingines has a political system and domestic legal framework that are the same or functionally similar to the ones in your country.

Nineteen-year-old Meena lives in Qaarth, a village near the coast in the nation of Gingines. Meena's home is three hours away from the nearest city, Targeridad. Once a month or so, she makes the trek into the city to run errands for her family and while there, she visits one of the many Internet cafes in the city to update her blog, which discusses the many challenges facing young women in Gingines today. She also likes to follow the Twitter feeds of certain outspoken critics of the governments' draconian policies on abortion and frequently retweets posts that she finds insightful or provocative.

Last month, Meena posted a thoughtful reflection to an article explaining different methods of birth control. She uploaded some helpful graphics to help explain the procedures involved. A few online commenters (The Positive Commenters) started a conversation at the end of the post, some providing links to other articles on contraception and other sex education websites. From Meena's perspective, the conversation was satisfying, maybe a little frustrating – she had one commenter (The Negative

Commenter) that tried to derail the conversation by calling her and the others immoral and threatening to complain to the website host.

A month later, Meena sits down at the same Internet café, noticing that it is not nearly as crowded as it usually is – she didn't even have to wait this time. She starts her usual routine of going to her blog homepage before logging in. She likes to check that it still looks the way she wants it to. After typing in the address, her screen pulls a 404 Error: webpage not found message. She double-checks that she typed the address in correctly. Everything is correct. She tries to login – thinking maybe she can figure out what happened from her dashboard. She gets a screen stating that her private blogging account on [X] platform has been suspended for violating the terms of service prohibition on distributing pornography. She doesn't understand; there was no pornography on her page! She would never post anything like that. The only post she could think of that had any sexual content at all was the one about birth control. Surely that couldn't be considered pornographic? There does not appear to be any way she can clarify or contest the deletion of her account with the host company running the blogging website.

Just as she gets up to ask the guy at the desk if he knows what she should do about her blog being taken down, three armed police officers barge in and tell everyone to stay still and that they are conducting a raid for illegal activities at the café. The attendant tells them they need a warrant, but the police merely tell the other patrons to move. Once the seats are cleared, the officers sit down and go through the browser and search histories. No one is allowed to leave. Meena watches terrified as an officer goes through her computer. One policeman forces her to turn over her personal data so he can access her email and social media accounts. He then demands to have her cell phone, orders her to unlock it under threat of arrest, and proceeds to search through it as well.

After the police leave, the owner mumbles something about business being slow and goes back into the back room. When Meena returns the next month, all of the computers have as the following message incorporated into the desktop: *You may not use this computer for any activities, including searches, that threaten national security or public morals. All violators will be prosecuted by the authorities and may be banned from using public Internet cafes in Gingines.* She is warned by the owner that if she violates any of these rules “like she did before” he would ban her from the establishment. He further claims that the police told him they were “watching her” and would “make him pay, too” if she were allowed to cause further trouble online.

You work for a digital rights NGO in Targeridad, the capital of Gingines. You and your colleagues are called to a meeting to discuss the human rights law framework applicable to Meena’s predicament. Read all the questions below, and think about how you would go about researching the answers.

- What fundamental human rights are implicated in Meena’s case?
- What applicable human rights treaties has your country ratified? When were they ratified? Have these treaties been implemented by the legislature, the judiciary or otherwise?
- To what extent are international human rights standards incorporated into your constitution, or otherwise reflected in the rights protected by the constitution?
- To what extent is international law generally a part of your domestic law? Is the legal system monist or dualist?
- To what extent have the constitutional and/or human rights protections identified been implemented internally through the adoption of statutes, laws, rules, executive orders, and/or other legal norms?
- What gaps or deficiencies are there in existing national law, jurisprudence or practice with respect to digital rights issues like those Meena is facing?
- How might international norms and standards operate to help fill any such gaps, if they don’t already?
- With respect to the norms and remedies in place to give effect to the applicable constitutional and human rights identified: who enforces them? Is there a human rights ombudsman in the country?
- What previous efforts (if any) have been made to seek legal protection under the constitution and laws of the State for the types of abuses Meena suffered? What legal remedies are available? Are they adequate? How effective have they been?

6.

Bibliography and Additional Internet Resources Scenario

United Nations Human Rights System

International human rights law (Overview), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/International-Law.aspx>

Office of the High Commissioner for Human Rights (OHCHR), <http://www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx>

OHCHR website, <http://www.ohchr.org/EN/pages/home.aspx>

UN Human Rights Bodies (Overview), <http://www.ohchr.org/EN/HRBodies/Pages/Human-RightsBodies.aspx>

Human Rights Council, <https://www.ohchr.org/EN/HR-Bodies/HRC/Pages/Home.aspx>

Special Procedures (Overview), <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

Treaty Body System (Overview), <http://www.ohchr.org/EN/HRBodies/Pages/Overview.aspx>

Human Rights Committee, <http://www.ohchr.org/en/hr-bodies/ccpr/pages/ccprindex.aspx>

Special Rapporteur on the Right to Freedom of Opinion and Expression (Overview), <http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>

Relevant Reports of the Special Rapporteur on Freedom of Opinion and Expression:

[Report on content regulation online](#) (2018)

[Report on the role and regulation of digital access providers](#) (2017)

[Report to the General Assembly on contemporary challenges to freedom of expression](#) (2016)

[Report on freedom of expression, states and the private sector in the digital age](#) (2016)

[Report on the use of encryption and anonymity in the digital age](#) (2015)

[Report on the right of children to freedom of expression](#) (2014)

[Report on impact of States' surveillance of communications on the rights to privacy, opinion and expression](#) (2013)

[Report to the General Assembly on hate speech and incitement to hatred](#) (2012)

[Report on the protection of journalists and media freedom](#) (2012)

[Report to the General Assembly on the right to freedom of opinion and expression exercised through the Internet](#) (2011)

[Report on key trends and challenges to exercising freedom of expression on the Internet](#) (2011)

Special Rapporteur on the Right to Privacy (Overview), <https://www.ohchr.org/EN/Issues/Privacy/SR/Pages/SR-PrivacyIndex.aspx>

Reports of the Special Rapporteur on the Right to Privacy:

[Report on surveillance and privacy](#) (2018)

[Report on metadata and open data](#) (2017)

Reports and Resources on Privacy from the Office of the High Commissioner on Human Rights, <https://www.ohchr.org/EN/Issues/DigitalAge/Pages/DigitalAgeIndex.aspx>

Treaties and Other Legal Resources:

Universal Declaration of Human Rights, <http://www.un.org/en/universal-declaration-human-rights/>

International Covenant on Civil and Political Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

First Optional Protocol to the ICCPR, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx>

2014 General Assembly Resolution on Privacy in the Digital Age, <http://undocs.org/A/RES/68/167>

2012 Human Rights Council Resolution on Human Rights and the Internet, http://ap.ohchr.org/documents/alldocs.aspx?doc_id=20280

2018 Human Rights Council Resolution on Human Rights and the Internet, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/L.10/Rev.1

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UN HRC GC 16, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fC-CPR%2fGEC%2f6624&Lang=en

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Other resources

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