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## Protecting Internet Access: A Human Rights Treaty Approach

Harpreet Kaur

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# PROTECTING INTERNET ACCESS: A HUMAN RIGHTS TREATY APPROACH

## INTRODUCTION

National and local governments often implement internet restrictions in light of political unrest.<sup>1</sup> While governments may justify internet restrictions for ostensibly legitimate reasons, there is concern that the restrictions are imposed to further political motives and to repress people and political rivals.<sup>2</sup> In recent years, both democratic and non-democratic governments have increasingly and extensively implemented internet shutdowns, most notably in Asian and African countries.<sup>3</sup>

The internet is a fundamental part of human life today, so the disruption of internet access can be detrimental to those who depend upon it to manage their daily lives.<sup>4</sup> If the internet can be used by governments in ways that can erode or infringe upon people's civil and human rights, then governmental control over the internet should be scrutinized and restricted.

There is no international law that directly provides for a fundamental right to protect internet access.<sup>5</sup> The Universal Declaration of Human Rights (UDHR), however, protects freedom of opinion and expression as a fundamental human right.<sup>6</sup> Peo-

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1. See Heidi J.S. Tworek, *Government-Imposed Internet Blackouts are a Power Move to Suppress Dissent*, CONVERSATION (June 24, 2019, 5:54 PM), <https://theconversation.com/government-imposed-internet-blackouts-are-a-power-move-to-suppress-dissent-119153>; Feliz Solomon, *Internet Shutdowns Become a Favorite Tool of Governments: 'It's Like We Suddenly Went Blind'*, WALL ST. J. (Feb. 25, 2020, 12:02 PM), <https://www.wsj.com/articles/internet-shutdowns-become-a-favorite-tool-of-governments-its-like-we-suddenly-went-blind-11582648765>. There are various types of internet restrictions, including shutdowns, blocking, and throttling. See generally Isabel Linzer, *An Explainer for When the Internet Goes Down: What, Who, and Why?*, FREEDOM HOUSE: PERSPECTIVES (July 29, 2019), <https://freedomhouse.org/article/explainer-when-internet-goes-down-what-who-and-why>.

2. Giovanni de Gregorio & Nicole Stremlau, *Internet Shutdowns and the Limits of Law*, 14 INT'L J. COMM., 4224, 4228, 4235 (2020).

3. *Id.* at 4224–25.

4. Paul De Hert & Dariusz Kloza, *Internet (Access) as a New Fundamental Right. Inflating the Current Rights Framework*, 3 EUR. J. L. & TECH., 1, 2–3 (2012).

5. Solomon, *supra* note 1.

6. G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 19 (Dec. 10, 1948). The United Nations (UN) General Assembly developed the

ple's ability to exchange information is encompassed within the freedom of opinion and expression.<sup>7</sup> A constrainable right to the freedom of expression is also recognized in the International Convention on Civil and Political Rights (ICCPR).<sup>8</sup> After the advent of the internet, and in accordance with the UDHR and the ICCPR, the Human Rights Council (HRC) of the United Nations (UN)<sup>9</sup> has recognized internet access as encompassed by human rights today, particularly as it relates to the freedom of opinion and expression.<sup>10</sup>

Although internet access can continue to be protected as an incidental interest of the freedom of opinion and expression,<sup>11</sup> it

Universal Declaration of Human Rights (UDHR) to provide a set of universally protected fundamental human rights that are recognized by its States parties. *Id.* at pmb1.

7. *Id.* art. 19.

8. International Covenant on Civil and Political Rights, art. 19, Dec. 16, 1966, S. Exec. Doc. No. E, 95-2, 999 U.N.T.S. 171 [hereinafter ICCPR]. The International Covenant on Civil and Political Rights (ICCPR) recognizes that for there to be civil and political freedom, as well as freedom from fear, people need conditions in which "everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights." *Id.* at pmb1. The freedom of expression "may . . . be subject to certain restrictions" due to the freedom's implied "special duties and responsibilities." *Id.* art. 19. For such restrictions to be imposed, however, they must have a legal basis and must be necessary. *Id.*

9. See generally *Welcome to the Human Rights Council*, U.N. HUM. RTS. COUNCIL, <https://www.ohchr.org/en/hrbodies/hrc/pages/aboutcouncil.aspx>, (last visited Jan. 7, 2021). The Human Rights Council (HRC) is an intergovernmental body of the UN General Assembly comprised of 47 UN Member States. *Id.* The HRC is dedicated to "strengthening the promotion and protection of human rights" and where human rights violations occur, the HRC can address the violations and provide recommendations on managing them. *Id.* The HRC is distinct from the Office of the United Nations High Commissioner for Human Rights (OHCHR), which "provides technical, substantive and secretariat support to the [HRC]." *Frequently Asked Questions*, U. N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/AboutUs/Pages/FrequentlyAskedQuestions.aspx>, (last visited Jan. 7, 2021).

10. Human Rights Council Res. 7/36, U.N. Doc. A/HRC/RES/7/36, at 2 (Mar. 28, 2008); see also Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, 4, 7, U.N. Doc. A/HRC/17/27 (May 16, 2011) [hereinafter Special Rapporteur, A/HRC/17/27].

11. See H.R.C. RES. 7/36, *supra* note 10, at 2; Special Rapporteur, A/HRC/17/27, *supra* note 10, at 7.

may be better to protect internet access in a way that allows for direct and regular monitoring of internet restrictions. The relevance of internet access to human rights<sup>12</sup> warrants a multilateral treaty under the HRC.

Such a treaty would establish a treaty committee to monitor and vet restrictions imposed by the States parties, and advise on legislative changes to normalize protecting internet access. The treaty committee would help identify instances of abusive restrictions and call for State party accountability in their practices. The treaty committee would also respect State sovereignty while encouraging the protection of vulnerable populations and discouraging States parties from abusing their ability to restrict the internet.

Part I of this note discusses the general background of internet restrictions with a focus on recent cases in India, Ethiopia, and Venezuela. Part II explores how the UN currently protects internet access within the existing human rights framework. This section of the note includes an overview of how treaty committees currently monitor State party compliance with their respective treaties under the HRC. Part III proposes a multilateral treaty and details the role that the treaty committee would play in monitoring the treaty's implementation and vetting state-sanctioned internet restrictions. Finally, some concluding remarks are offered.

## I. GENERAL BACKGROUND ON INTERNET RESTRICTIONS

The internet has existed for many decades, and many rely on it to facilitate their access to such international human rights as “health, education, employment, the arts, [and] gender equality.”<sup>13</sup> From communication to banking, people use the internet for their daily activities and interactions with others.<sup>14</sup>

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12. Special Rapporteur, A/HRC/17/27, *supra* note 10, at 7.

13. Scott Edwards, *Is Internet Access a Human Right?*, AMNESTY INT'L (Jan. 10, 2012), <https://www.amnestyusa.org/is-internet-access-a-human-right/>.

14. See Daniela Virjan, *The Internet is Changing Our World*, 20 THEORETICAL AND APPLIED ECON. 117, 119, 121–123 (2013); see also Edwards, *supra* note 13. See generally Linda Yan, *Top 5 Benefits of the Internet in Developing Countries*, THE BORGEN PROJECT: BLOG (July 16, 2019), <https://borgenproject.org/top-5-benefits-of-the-internet-in-developing-countries/>; Anmar Frangoul, *10 Ways the Web and Internet Have Transformed Our Lives*, CNBC: IOT: POWERING THE DIGITAL ECONOMY (Feb. 9,

Internet obstructions have wide-ranging effects on various parts of society and can be especially detrimental to the most vulnerable.<sup>15</sup>

According to Access Now,<sup>16</sup> “[a]n internet shutdown is an intentional disruption of internet or electronic communications, rendering them inaccessible or effectively unusable, for a specific population or within a location, often to exert control over the flow of information.”<sup>17</sup> Access Now reports that in 2019, internet shutdowns increased in number and longevity, with 213 shutdowns documented.<sup>18</sup> In comparison, there were 196 documented shutdowns in 2018, 106 shutdowns in 2017, and seventy-five shutdowns in 2016.<sup>19</sup> The number of countries that implemented shutdowns also increased from twenty-five in 2018 to thirty-three in 2019.<sup>20</sup> Countries with the highest instances of internet shutdowns in 2019 were: India with 121 shutdowns; Venezuela with twelve shutdowns, Yemen with eleven shutdowns; Iraq with eight shutdowns; Algeria with six shutdowns; and Ethiopia with four shutdowns.<sup>21</sup>

While the preceding statistics on governmental internet shutdowns are fairly recent, governmental interference with the internet is not a new phenomenon. In 2010, the world watched the Arab Spring unfold as civilians protested for governmental reforms in various Middle Eastern and North African countries.<sup>22</sup> The protests occurred in different countries

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2018, 3:30 AM), <https://www.cnn.com/2018/02/09/10-ways-the-web-and-internet-have-transformed-our-lives.html>.

15. See Solomon, *supra* note 1.

16. Access Now is an international resource dedicated to protecting and promoting people’s digital rights at a global scale, and it provides data and reports to this end. See *generally About Us*, ACCESS NOW, <https://www.accessnow.org/about-us/> (last visited Jan. 7, 2020).

17. BERHAN TAYE & ACCESS NOW, TARGETED, CUT OFF, AND LEFT IN THE DARK THE #KEEPITON REPORT ON INTERNET SHUTDOWNS IN 2019, 2 (2019), <https://www.accessnow.org/cms/assets/uploads/2020/02/KeepItOn-2019-report-1.pdf>.

18. *Id.* at 1.

19. BERHAN TAYE & ACCESS NOW, THE STATE OF INTERNET SHUTDOWNS AROUND THE WORLD: THE 2018 #KEEPITON REPORT, overview (2018), <https://www.accessnow.org/cms/assets/uploads/2019/07/KeepItOn-2018-Report.pdf>.

20. TAYE, *supra* note 17, at 1.

21. *Id.*

22. *Arab Spring*, ENCYC. BRITANNICA, <https://www.britannica.com/event/Arab-Spring> (last visited Jan. 7, 2020).

with the common goal of increasing democratic interests.<sup>23</sup> Some revolutions resulted in successful changes whereas others did not.<sup>24</sup>

A significant feature of the Arab Spring was the use of social media.<sup>25</sup> Social media is commonly understood as a key tool for the organization and mobilization of the revolutionaries.<sup>26</sup> The research following the revolutions suggests that in Egypt, social media was primarily used to alert the rest of the world about what was happening in the country at the time.<sup>27</sup> The Pew Research Center's Global Attitudes Project<sup>28</sup> found that approximately 65% of the Egyptian population was not connected to the Internet at the time of the study and that 84% of those connected used social networking sites to remain updated about national political news.<sup>29</sup>

The data signals that while social media was key in spreading the news about the Arab Spring, it was not necessarily "a mobilizing force in the uprisings."<sup>30</sup> The Egyptian government's response to the uprisings, however, was:

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23. *Id.*

24. *Id.* The revolutions in Tunisia and Egypt were successful, but those in Yemen, Bahrain, Libya and Syria resulted in "protracted bloody struggles between opposition groups and ruling regimes." *Id.*

25. Peter Beaumont, *The Truth About Twitter, Facebook and the Uprisings in the Arab World*, GUARDIAN (Feb. 25, 2011, 3:00 PM), <https://www.theguardian.com/world/2011/feb/25/twitter-facebook-uprisings-arab-libya>. The defining image of the Arab Spring is "a young woman or a young man with a smartphone" taking pictures of the demonstrations or of injuries inflicted on civilians. *Id.* Facebook and Twitter are two social media sites that were said to be the platforms that the revolutionaries used, notably in Tunisia and Egypt, to organize and disseminate details of the uprisings. *Id.*

26. See Heather Brown, Emily Guskin & Amy Mitchell, *The Role of Social Media in the Arab Uprisings*, PEW RES. CTR.: JOURNALISM & MEDIA (Nov. 28, 2012), <https://www.journalism.org/2012/11/28/role-social-media-arab-uprisings/>.

27. *Id.*

28. The Pew Research Center's Global Attitudes Project surveys international public opinions on topics such as personal matters and global affairs. See generally *International Surveys*, PEW RES. CTR.: U.S. POL. & POL'Y, <https://www.pewresearch.org/politics/methodology/sampling/international-surveys/> (last visited Jan. 10, 2021). This project has been running since 2002. *Id.*

29. Brown, Guskin & Mitchell, *supra* note 26.

30. *Id.*

[A] heavy-handed attack on fundamental human rights. It ordered telecommunications companies in the region to cut off access to the internet, voice, and SMS, directly interfering with Egyptians' right to seek, receive, and impart information. It also forced the companies to send pro-regime propaganda messages.<sup>31</sup>

Even if the use of social media did not necessarily mobilize the Arab Spring,<sup>32</sup> the breadth of the constraints imposed in response to the uprisings<sup>33</sup> represents how powerful the government perceived the internet to be during the uprisings.

#### A. Internet Restrictions in India

The Indian government frequently implements internet shutdowns.<sup>34</sup> Between January 2012 and March 15, 2020, there were 385 internet shutdowns in India, 237 of which were “preventive” because they were implemented in anticipation of disruptions of law and order.<sup>35</sup> The remaining 148 shutdowns were “reactive” because they were imposed to “contain on-going law and order breakdowns.”<sup>36</sup> In 2018, India had the highest

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31. Deji Olukotun & Peter Micek, *Five Years Later: The Internet Shutdown That Rocked Egypt*, ACCESS NOW: BLOG (Jan. 21, 2016, 7:35 PM), <https://www.accessnow.org/five-years-later-the-internet-shutdown-that-rocked-egypt/>.

32. Brown, Guskin & Mitchell, *supra* note 26.

33. Olukotun & Micek, *supra* note 31. The Egyptian government imposed an internet shutdown by “order[ing] telecommunications companies in the region to cut off access to the internet, voice, and SMS. . . . [and] forced the companies to send pro-regime propaganda messages.” *Id.* This shutdown spanned a five-day period. *Id.*

34. *See Internet Shutdowns*, SOFTWARE FREEDOM LAW CENTRE, INDIA, <https://internetshutdowns.in/> (last visited Apr. 14, 2021). Between 2012 and so far in 2021, there have been 525 total internet shutdowns in India. *Id.* The bulk of these shutdowns occurred between the years 2016 and 2020. *See id.* To illustrate the increasing frequency with which these shutdowns have occurred: India imposed three shutdowns in 2012, five in 2013, six in 2016, fourteen in 2015, thirty-one in 2016, seventy-nine in 2017, 134 in 2018, 106 in 2019, 129 in 2020, and eighteen so far in 2021. *Id.*

35. *Id.*

36. *Id.*



number of internet shutdowns in the world at 134.<sup>37</sup> Pakistan ranked second on this list with twelve shutdowns.<sup>38</sup>

A more recent instance of an internet shutdown occurred in the Indian-controlled portion of Kashmir<sup>39</sup> after India revoked the region's status as a semi-autonomous state.<sup>40</sup> Kashmir's annexation resulted in unrest in the region and many human rights violations,<sup>41</sup> which were exacerbated by an internet shutdown that effectively disconnected Kashmiris from the rest of the world.<sup>42</sup> Just ten days into the internet shutdown, the Kashmiri economy was brought to a standstill, hurting "farmers, herders, small businesses and daily wage laborers."<sup>43</sup> In an environment of turmoil and police brutality, people were una-

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37. Shadab Nazmi, *Why India Shuts Down the Internet More than Any Other Democracy*, BBC NEWS: DELHI (Dec. 19, 2019), <https://www.bbc.com/news/world-asia-india-50819905>.

38. *Id.*

39. India and Pakistan have long disputed their control over the region of Kashmir, which is separated by the 450-mile-long Line of Control (LoC). *Conflict Between India and Pakistan*, COUNCIL ON FOREIGN REL.: GLOB. CONFLICT TRACKER, <https://www.cfr.org/global-conflict-tracker/conflict/conflict-between-india-and-pakistan> (last visited Jan. 7, 2021). India and Pakistan "have maintained a fragile cease-fire [along the LoC] since 2003," one that is regularly breached by both countries. *Id.* See also Karan Deep Singh, *What Is the Line of Control? – The Short Answer*, WALL ST. J. (Nov. 29, 1999, 8:00 PM), <https://www.wsj.com/articles/BL-263B-8246>.

40. *India Restores Internet in Kashmir After 7 Months of Blackout*, AL JAZEERA (Mar. 5, 2020), <https://www.aljazeera.com/news/2020/03/india-restores-internet-kashmir-7-months-blackout-200305053858356.html>.

41. See generally Fayaz Bukhari, *With a Heavy Hand, India Rides Out Kashmir's Year of Disquiet*, REUTERS: EMERGING MKTS. (Aug. 2, 2020, 9:36 PM), <https://www.reuters.com/article/us-india-kashmir/with-a-heavy-hand-india-rides-out-kashmirs-year-of-disquiet-idUSKBN24Z04X>; Jeffrey Gettleman, Suhasini Raj, Kai Schultz & Hari Kumar, *India Revokes Kashmir's Special Status, Raising Fears of Unrest*, N.Y. TIMES (Aug. 5, 2019), <https://www.nytimes.com/2019/08/05/world/asia/india-pakistan-kashmir-jammu.html>.

42. See *India: Abuses Persist in Jammu and Kashmir*, HUM. RTS. WATCH (Aug. 4, 2020, 9:00 AM), <https://www.hrw.org/news/2020/08/04/india-abuses-persist-jammu-and-kashmir>; Rina Chandran & Annie Banerji, *With No Phones or Internet, Kashmiris Struggle to Reach Families*, REUTERS (Aug. 14, 2019, 9:45 AM), <https://www.reuters.com/article/us-india-kashmir-rights/with-no-phones-or-internet-kashmiris-struggle-to-reach-families-idUSKCN1V41FC>.

43. Chandran & Banerji, *supra* note 42; see also *India: Abuses Persist in Jammu and Kashmir*, *supra* note 42.



ble to contact their relatives and were forced to find alternative means to bring essential supplies into the region.<sup>44</sup>

The Indian government claimed that the internet shutdown “was necessary to prevent anti-India protests and attacks by rebels who have fought for decades for Muslim-majority Kashmir’s independence or unification with Pakistan, which administers the other part of Kashmir.”<sup>45</sup> The seven-month shutdown is the longest that a democratic country has experienced.<sup>46</sup> The shutdown forced local technological companies to close or relocate, resulted in at least 150,000 lost jobs, prevented critically-ill patients from accessing government healthcare services, prevented students from applying to fellowships and scholarships, and broadly obstructed communications between Kashmir and the rest of the world.<sup>47</sup>

### *B. Internet Restrictions in Ethiopia*

In Ethiopia, the percentage of online connectivity and usage is low, with only 17.98% of Ethiopian households connected to the Internet as of 2018, compared to 55.18% of all households in the World being connected to the Internet in the same year.<sup>48</sup> The Ethiopian government has imposed over twelve in-

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44. Chandran & Banerji, *supra* note 42; see also *India: Abuses Persist in Jammu and Kashmir*, *supra* note 42.

45. *India Restores Internet in Kashmir After 7 Months of Blackout*, *supra* note 40.

46. *Id.*

47. *Id.*

48. ICT Infrastructure and Market Structure, ITU/ICT-EYE ICT DATA PORTAL, <https://www.itu.int/net4/ITU-D/icteye/#/compare> (clear pre-selected regions from search bar and type in “Ethiopia” and “World.” Refer to the graph titled “Percentage of households with Internet” and hover cursor over the 2018 for each line represented on the graph for a percentage indication) (last visited Jan. 7, 2021). The Telecommunication Development Sector, or ITU-D, is an agency organized under the United Nations dedicated to implementing and enhancing the development of telecommunications technology in the world. *About the ITU-D and the BDT*, INT’L TELECOMM. UNION, <https://www.itu.int/en/ITU-D/Pages/About.aspx> (last visited Oct. 26, 2020). Specifically, the ITU-D “fosters international cooperation and solidarity in the delivery of technical assistance and in the creation, development and improvement of telecommunication and [Information and Communications Technology, or ICT,] equipment and networks in developing countries.” *Id.* The ITU-D provides comparative statistics on various ICT-related indicators for countries around the world with respect to four indicators, one of which is the “percentage of households with internet.” ICT Infrastructure and Market

ternet shutdowns<sup>49</sup> despite such a small percentage of the population having internet access. Most recently, the Ethiopian government shut down internet access in the country for two weeks after the murder of Haacaaluu Hundeessaa, a social activist and musician of Oromo identity.<sup>50</sup> After the two-week shutdown, internet access was only partially restored.<sup>51</sup> The national shutdown was immediately preceded by a shutdown imposed in the Oromia region, which lasted about three months.<sup>52</sup>

Beginning in January 2020, the Ethiopian government disconnected phone and internet communication services in various parts of Oromia that were under federal military control at the time.<sup>53</sup> The shutdown was imposed at a time when there were reports of military operations against the Oromo Liberation Front,<sup>54</sup> which was previously banned by the government.<sup>55</sup> There were many reports of human rights abuses, “in-

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Structure, *supra* note 48. According to another, broader set of indicators and statistics, 18.62% of the Ethiopian population was using the internet in 2018. Using the Query Function, ITU ICT-EYE ICT DATA PORTAL, <https://www.itu.int/net4/ITU-D/icteye/#/query> (in the “Pick Economies” field, type in “Ethiopia;” then, in the “Pick Years” field, type “2019;” then, in the “Pick Indicators” field, type “Percentage of the population using the internet.”) (last visited Jan 7, 2021).

49. *Back in the Dark: Ethiopia Shuts Down Internet Once Again*, ACCESS NOW: BLOG (July 16, 2020, 5:59 AM), <https://www.accessnow.org/back-in-the-dark-ethiopia-shuts-down-internet-once-again/>.

50. *Id.* The Oromo people are an Ethiopian ethnic group. See *Thousands of Ethiopians Hail Return of Once-Banned Oromo Group*, AL JAZEERA (Sept. 15, 2018), <https://www.aljazeera.com/news/2018/9/15/thousands-of-ethiopians-hail-return-of-once-banned-oromo-group>.

51. *Back in the Dark: Ethiopia Shuts Down Internet Once Again*, *supra* note 49.

52. *Id.*

53. *Ethiopia: Communications Shutdown Takes Heavy Toll*, HUM. RTS. WATCH (Mar. 9, 2020, 12:00 AM), <https://www.hrw.org/news/2020/03/09/ethiopia-communications-shutdown-takes-heavy-toll>.

54. The Oromo Liberation Front (OLF) is a rebel group that was organized in 1973 to promote the right of self-determination for Ethiopia’s largest ethnic group, the Oromo people. *Thousands of Ethiopians Hail Return of Once-Banned Oromo Group*, *supra* note 50. After a clash with another group in 1992, the OLF engaged in armed attacks and it was subsequently declared a terrorist group and was banned by the Ethiopian government. *Id.* After much political change, anti-government protests by the Oromo people, the ban on the OLF was lifted in July 2018. *Id.*

55. *Ethiopia: Communications Shutdown Takes Heavy Toll*, *supra* note 53.

cluding accounts of killings and mass detentions by government forces.”<sup>56</sup> Prior to the January 2020 shutdown, it is worth noting that:

In 2019, Ethiopia shut down the internet eight times during public protests and unnecessarily around national exams. Following the June 22 assassinations of five high-level government officials, which the government linked to an alleged failed coup attempt in the Amhara region, the government imposed an internet blackout across the country. The internet was only completely restored on July 2. At the time of the shutdown, the government gave no explanation or indication of when the service would be restored.<sup>57</sup>

The internet shutdowns of 2019 show that the Ethiopian government tends to impose government shutdowns for vague reasons, seldom offering explanations or details about when internet access would be reinstated.<sup>58</sup>

The most recent shutdown in Ethiopia came during the COVID-19 pandemic and the inaccessibility of online information exacerbated the impact of the disease within the country.<sup>59</sup> The unrest following the murder of Hundeessaa resulted in at least 239 deaths and nearly 5,000 arrests.<sup>60</sup> The internet shutdown made it difficult to track human rights abuses and it damaged the economy at an estimated loss of four million dollars per day.<sup>61</sup>

### C. Internet Restrictions in Venezuela

Under President Nicolás Maduro, the Venezuelan government has long used internet restrictions to thwart the organi-

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56. *Id.*

57. *Id.*

58. *See id.*

59. Cara Anna, *Ethiopia Enters 3rd Week of Internet Shutdown After Unrest*, AP NEWS (July 14, 2020), <https://apnews.com/article/ef40c6b5639bfa346378ca89a4760e2f>.

60. *Id.*

61. *Id.* (“Human rights groups have said the internet cut complicates efforts to track abuses.”); *see also* David Ochieng Mbewa, *Ethiopia Lost at Least \$100 Million During Internet Shutdown, Civil Society Group Says*, CGTN: AFRICA (July 27, 2020), <https://africa.cgtn.com/2020/07/27/ethiopia-lost-at-least-100-million-during-internet-shutdown-civil-society-group-says/> (reporting that the internet shutdown in Ethiopia resulted in an economic loss of at least \$100 million).

zational efforts of opposing political parties and to censor the information disseminated to Venezuelans.<sup>62</sup> In addition to censoring media outlets and broadcast networks, the Venezuelan government has “collect[ed] citizens’ information from the internet to use it against them.”<sup>63</sup>

Recently, internet restrictions were imposed in the time leading up to the 2019 election period.<sup>64</sup> Maduro’s presidency was threatened by the political opposition, and the censorship was implemented to prevent uprisings from Venezuelans who opposed Maduro’s re-election, including an attempted military coup in April 2019.<sup>65</sup> At the time, Venezuelans had very limited information about the uprising due to prompt blackouts imposed by the government in an effort to thwart it.<sup>66</sup> Maduro’s resultant re-election has been called illegitimate by foreign governments.<sup>67</sup> To secure Maduro’s power, his administration has stifled and inflicted human rights abuses against its opposing parties.<sup>68</sup> Furthermore, the administration has overseen the arrests of over 12,800 people for having connections to anti-government protests.<sup>69</sup>

The limitations imposed on the internet are a part of a long-running effort on the part of President Maduro and his predecessor, President Hugo Chávez, to limit people’s access to information.<sup>70</sup> As a result, the Venezuelan people have had to find alternative and much less reliable means of accessing in-

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62. *Social Media Shutdown in Venezuela is a Warning of What is to Come as Political Tensions Rise*, ACCESS NOW: BLOG (Jan. 22, 2019, 4:21 PM), <https://www.accessnow.org/social-media-shutdown-in-venezuela-is-a-warning-of-what-is-to-come-as-political-tensions-rise/>.

63. Moises Rendon, *The Internet: Venezuela’s Lifeline*, CTR. FOR STRATEGIC & INT’L STUD. (Dec. 4, 2019), <https://www.csis.org/analysis/internet-venezuelas-lifeline>.

64. Isayen Herrera, *How Venezuela’s Vice Grip on the Internet Leaves Citizens in the Dark During Crises*, NBC NEWS (May 16, 2019, 10:23 AM), <https://www.nbcnews.com/tech/tech-news/how-venezuela-s-vice-grip-internet-leaves-citizens-dark-during-n1006146>.

65. *See id.*

66. *Id.*

67. Ana Vanessa Herrero & Megan Specia, *Venezuela Is in Crisis. So How Did Maduro Secure a Second Term?*, N.Y. TIMES (Jan. 10, 2019), <https://www.nytimes.com/2019/01/10/world/americas/venezuela-maduro-inauguration.html>.

68. *Id.*

69. *Id.*

70. Herrera, *supra* note 64.

formation.<sup>71</sup> People now rely on information chain messages through WhatsApp,<sup>72</sup> which is analogous to a word-of-mouth approach. They also rely on other mobile phone apps and virtual private networks to circumvent blocked media content.<sup>73</sup> The internet restrictions have exacerbated other long-running struggles faced by Venezuelans as well, such as “shortages of food and medicine, hyperinflation, unreliable sources of electricity and water, rampant violence both by law enforcement officers themselves and criminals driven by poverty and lawlessness . . . .”<sup>74</sup>

## II. THE UN’S ENFORCEMENT OF INTERNATIONAL HUMAN RIGHTS LAWS

The UN wields varying degrees of power in the international context, ranging from soft power to hard power.<sup>75</sup> Soft power is useful where there is disagreement between powerful UN Member States and the Member States are willing to cooperate with the UN on the matter at hand.<sup>76</sup> Soft power has limitations, however, and it is difficult to exercise when UN Member States are not in consensus.<sup>77</sup>

Chapter VII of the UN Charter prescribes the UN’s hard power at times when peace is breached or threatened, or when

71. *Id.*

72. *Id.* WhatsApp is a communications app which provides “free . . . simple, secure, reliable messaging and calling, available on phones all over the world.” *About WhatsApp*, WHATSAPP, <https://www.whatsapp.com/about/> (last visited Jan. 10, 2021). An “app” is an “application” used on mobile devices. *App*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/app> (last visited Jan. 10, 2021).

73. Herrera, *supra* note 64.

74. *Social Media Shutdown in Venezuela is a Warning of What is to Come as Political Tensions Rise*, *supra* note 62 (internal quotation marks omitted).

75. Joseph S. Nye, Jr., *The Soft Power of the United Nations*, PROJECT SYNDICATE (Nov. 12, 2007), <https://www.project-syndicate.org/commentary/the-soft-power-of-the-united-nations?barrier=accesspaylog> (“Power is the ability to affect others to produce the outcomes one wants. Hard power works through payments and coercion (carrots and sticks); soft power works through attraction and co-option.”. The UN does not have its own hard power as it does not possess sufficient enforcement mechanisms to exercise such power, meaning any source of hard power in the UN stems from a delegation of power from the UN Member States.).

76. *Id.*

77. *Id.*

a Member State engages in acts of aggression.<sup>78</sup> Coalescence among the Member States is important for the UN to exercise its power, but powerful Member States can overpower the UN's proposed exercises of power.<sup>79</sup> If a repressive Member State refuses to honor the obligations it agreed to, the obligations will be very difficult to enforce without consensus amongst the Member States.<sup>80</sup>

The Security Council and the General Assembly are the two main organs of the UN.<sup>81</sup> The General Assembly is comprised of all UN Member States and serves as the "main deliberative, policymaking and representative organ of the UN."<sup>82</sup> The Security Council is a smaller, but more powerful, organ of the UN.<sup>83</sup> It is comprised of five permanent and ten non-permanent Member States and charged with the "maintenance of international peace and security."<sup>84</sup>

The Security Council's mandates are binding on all Member States, and it has the ability to impose sanctions upon them—unlike the General Assembly.<sup>85</sup> The Security Council possesses the ability to "issue a ceasefire directive, dispatch military observers or a peacekeeping force."<sup>86</sup> Additionally, the Security Council may impose "economic sanctions, arms embargos, financial penalties and restrictions, travel bans, the severance of

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78. U.N. Charter art. 39–51; see also *Actions with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression*, U. N. SECURITY COUNCIL, <https://www.un.org/securitycouncil/content/repertoire/actions> (last visited Jan. 8, 2021).

79. See Nye, Jr., *supra* note 75.

80. *Id.*

81. *Main Organs*, UNITED NATIONS, <https://www.un.org/en/sections/about-un/main-or-gans/#:~:text=The%20main%20organs%20of%20the,Justice%2C%20and%20the%20UN%20Secretariat> (last visited Oct 26, 2020).

82. *Id.*

83. See *id.*

84. *Id.*

85. *Id.*; Somini Sengupta, *The United Nations Explained: Its Purpose, Power and Problems*, N.Y. TIMES (Sept. 18, 2016), <https://www.nytimes.com/2016/09/19/world/what-is-united-nations-explained.html>.

86. *Protect Human Rights*, UNITED NATIONS, <https://www.un.org/en/sections/what-we-do/protect-human-rights/> (last visited Oct 26, 2020).

diplomatic relations, a blockade, or even collective military action.”<sup>87</sup>

The General Assembly has little enforcement power, so the task of exercising power over Member States is difficult for one of its subdivisions, such as the HRC.<sup>88</sup> When it comes to enforcing human rights laws, the Office of the UN High Commissioner for Human Rights (OHCHR) investigates human rights violations and advises on remedies for these violations.<sup>89</sup> The Security Council may act on human rights violations, but it usually deals with “grave human rights violations, often in conflict areas.”<sup>90</sup>

The General Assembly relies upon two legal instruments to enforce its hard and soft powers.<sup>91</sup> First, it relies on the International Bill of Human Rights, which encompasses three instruments: the UDHR, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights.<sup>92</sup> Second, the General Assembly relies on the values shared by democratic nations.<sup>93</sup>

#### *A. The OHCHR's Approach to Protecting Internet Access*

Article 19 of the UDHR provides that “[e]veryone 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.”<sup>94</sup> Article 19 of the ICCPR largely mirrors Article 19 of the UDHR, but it further specifies that the freedom of expression includes “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.”<sup>95</sup> Article 19 of the ICCPR further provides that these rights may be subject to restrictions, but only so far as these restrictions are “provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protec-

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87. *Id.*

88. See Sengupta, *supra* note 85.

89. *Protect Human Rights, supra* note 86.

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. G.A. Res. 217 (III) A, *supra* note 6, art. 19.

95. ICCPR, *supra* note 8, art. 19(2).



tion of national security or of public order (ordre public), or of public health or morals.”<sup>96</sup>

Neither the UDHR nor the ICCPR specify the internet as an eligible medium of information reception and dissemination as they were both enacted prior to the advent of the internet as we know it today.<sup>97</sup> The internet is still protectable under these provisions as they both use the term “any media,” providing an expansive approach to eligible mediums of information exchange.

The Human Rights Council recognizes that internet access is related to the fundamental human rights delineated in the UDHR.<sup>98</sup> Internet access, as it relates to the freedom of opinion and expression, is monitored by the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (Special Rapporteur).<sup>99</sup> Under Resolution 7/36, the OHCHR recognized the internet as a medium of communication that is central to the freedom of opinion and expression.<sup>100</sup> Under Resolution 7/36, the Special Rapporteur must continuously:

[P]rovide his/her views, when appropriate, on the advantages and challenges of new information and communication technologies, including the Internet and mobile technologies, for the exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information and the relevance of a wide diversity of sources, as well as access to the information society for all.<sup>101</sup>

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96. *Id.* art. 19(3).

97. The UDHR was signed in 1948. G.A. Res. 217 (III) A, *supra* note 6. The ICCPR was enacted in 1966. ICCPR, *supra* note 8, at tit. The internet as we know it today, was introduced as the World Wide Web in 1991. *See generally* History.com Editors, *The Invention of the Internet*, HISTORY (July 30, 2010, updated Oct. 28, 2019), <https://www.history.com/topics/inventions/invention-of-the-internet>. The precursor of the Internet, the ARPAnet, was first suggested in 1962, but it was effectively limited to file sharing amongst limited computer networks, which were difficult to integrate into a more unified network until the late 1970s and during the 1980s. *Id.*

98. *See* H.R.C. RES. 7/36, *supra* note 10, at 2; Special Rapporteur, A/HRC/17/27, *supra* note 10, at 7.

99. *See generally* H.R.C. RES. 7/36, *supra* note 10, at 1–5.

100. H.R.C. RES. 7/36, *supra* note 10, at 2.

101. *Id.* at 4.

The Special Rapporteur has the ability to remind violating UN Member States of their obligation to respect the freedom of opinion and expression.<sup>102</sup>

The Special Rapporteur is tasked with reviewing and providing recommendations for a broad range of activities that violate the freedom of opinion and expression, not just those related to the internet.<sup>103</sup> While dealing with internet restrictions resulting in violations of the freedom of opinion and expression may be a component of the Special Rapporteur's duties,<sup>104</sup> it is not fair to suggest that the Special Rapporteur focuses all of their time and resources solely to oversee and advise against internet restrictions. While Special Rapporteur's mandate is arguably powerful<sup>105</sup> and it should endure, internet access would be more effectively protected through a multilateral treaty with a primary mandate of monitoring internet restrictions.

### *B. Existing Methods for Monitoring Compliance with Human Rights Treaties*

Within the international human rights legal system, there are ten core treaties.<sup>106</sup> Some of these treaties also have optional protocols for States parties to adopt at will.<sup>107</sup> For each of these ten treaties, there is a treaty committee that monitors the implementation of the treaties by States parties.<sup>108</sup> Each

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102. See *About the Mandate*, U. N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/mandate.aspx> (last visited Jan. 9, 2021).

103. See *id.*

104. See generally H.R.C. RES. 7/36, *supra* note 10, at 3–4; see also *About the Mandate*, *supra* note 102.

105. See generally *About the Mandate*, *supra* note 102.

106. *Monitoring the Core International Human Rights Treaties: Overview*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/Pages/Overview.aspx> (last visited Nov. 18, 2020).

107. U.N. High Comm'r for Human Rights, Background Conference Document, *Monitoring Implementation of the International Human Rights Instruments: An Overview of the Current Treaty Body System*, U.N. Doc. A/AC.265/2005/CRP.2, 2 (Jan. 24–Feb. 4, 2005) [hereinafter *Overview of the Current Treaty Body System*].

108. *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/Pages/WhatTBDo.aspx> (last visited Nov. 18, 2020); *Monitoring the Core International Human Rights Treaties: Over-*

committee is comprised of ten to twenty-three independent experts “who are nominated and elected for fixed, renewable terms of four years by . . .” the nationals of the States party to the treaty.<sup>109</sup>

There are four methods of monitoring procedures for the committees to rely upon.<sup>110</sup> First, there are reporting procedures, which require States parties to provide regular reports on their progress in implementing the treaty under their domestic law.<sup>111</sup> Second, there are individual communications procedures, which allow the committee to “receive and consider communications from individuals alleging violations of their rights under the convention by States [parties].”<sup>112</sup> Third, there are inter-State communications procedures, which allow one State party to submit a complaint alleging another State party’s failure to comply with the treaty.<sup>113</sup> Fourth, there are inquiry procedures, which allow the committees to initiate individual Country inquiries to investigate treaty violations, so long as they “received reliable information about serious or systematic violations of their conventions in a State party.”<sup>114</sup>

The reporting procedure is a blanket requirement applied to all States party to a treaty or convention as it is an implied obligation of the State’s ratification of the treaty, except when a treaty does not require it.<sup>115</sup> States party to a treaty are generally required to submit both initial and periodic reports to the treaty committee to show that they are fulfilling their duty to

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*view, supra* note 106; *Overview of the Current Treaty Body System, supra* note 107, at 3.

109. *Overview of the Current Treaty Body System, supra* note 107, at 3–4.

110. *Id.* at 5.

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108. Treaties generally oblige State parties to “submit periodic reports to the relevant treaty body.” *Id.* Notably, however, the Optional Protocol to the Convention Against Torture (OPCAT) does not require State parties to provide regular reports to the overseeing treaty body. See *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, Dec. 18, 2002, 2375 U.N.T.S. 237. Whether a periodic report is required of State parties is a matter that is determined by each treaty or optional protocol’s provisions. See *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108.

incorporate the treaty into their domestic laws.<sup>116</sup> When considering the report, the treaty committee may supplement the information contained within with that of other entities, such as nongovernmental organizations and other UN bodies.<sup>117</sup> The reporting system encourages adherence to the treaties by “providing for the creation of constituencies at the national level which encourage[s] implementation of human rights at the country level.”<sup>118</sup>

A downside to the reporting procedure is that sometimes signatory States find themselves lacking sufficient resources to provide reports without delay.<sup>119</sup> These delays are significant because “[o]n average, States submit their initial reports 33 months late and their periodic reports 28 months late.”<sup>120</sup> However, treaty committees can implement procedures to minimize these delays for efficiency.<sup>121</sup>

The individual communication and inquiry procedures are often used for addressing specific, case-by-case matters of human rights violations.<sup>122</sup> In comparison, the inter-State communication procedure has been provided for within many international human rights treaties, but this approach has not been used until fairly recently.<sup>123</sup>

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116. *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108; *Overview of the Current Treaty Body System*, *supra* note 107, at 6.

117. *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108.

118. *Overview of the Current Treaty Body System*, *supra* note 107, at 9.

119. *See id.*

120. *See id.* at 10.

121. *See Committee on the Elimination of Discrimination against Women: Working Methods*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/WorkingMethods.aspx> (last visited Jan. 2, 2020). CEDAW has a procedural approach that allows greater efficacy in reporting procedures for States parties that may have overdue reports. *See id.*

122. *See generally Overview of the Current Treaty Body System*, *supra* note 107, at 12–13.

123. *Compare Overview of the Current Treaty Body System*, *supra* note 107, at 5 (noting that “a number of the treaties provide for” the inter-State communications procedure) *with Human Rights Bodies - Complaints Procedures*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx> (last visited Jan. 4, 2021) (“In 2018, three inter-state communications were submitted under Article 11 of the Convention on the Elimination of All Forms of Discrimination, first time in its history.”).

The individual communication procedures are useful for “providing an effective and timely remedy to the person whose rights have been violated . . .” and they can help stimulate legal reform within the national and international adjudicative bodies.<sup>124</sup> There is a turnover period of up to 18 months for each individual complaint to be considered, however, and the high volume of complaints results in a case backlog for the committees.<sup>125</sup>

The inquiry procedure is helpful for a more timely, ad hoc, investigation of treaty violations and it can be used to call out individual countries even when no independent complainants come forward.<sup>126</sup> The inquiry procedure is a resource-intensive process,<sup>127</sup> which may pose a challenge for countries responding to the requests and cause delays in the procedural process.<sup>128</sup>

A challenge posed by the individual communication, inter-State communication, and inquiry procedures is that State parties generally have flexibility in determining whether they are subject to these procedures as opposed to the more uniform applicability of the reporting procedures.<sup>129</sup> The existing human rights treaties show that these procedures can be effectuated in the convention itself or through an optional protocol to the convention, depending on what each provides for.<sup>130</sup>

For all three of these more flexible procedures, a treaty could allow for a State party to either impliedly consent to a procedure when ratifying a treaty or to make a declaration to that effect.<sup>131</sup> Consent to the individual communications procedure and the inter-State communications procedure can also be

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124. *Overview of the Current Treaty Body System*, *supra* note 107, at 12.

125. *See id.* at 13

126. *See id.*

127. *Id.*

128. *See id.*

129. *See generally Human Rights Bodies - Complaints Procedures*, *supra* note 123 (discussing the preconditions and consent required by States parties for the implementation of the individual communication, inter-State communication, and inquiry procedures). *See also Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108 (discussing the general applicability of the reporting procedures required by existing international human rights treaties).

130. *See Human Rights Bodies - Complaints Procedures*, *supra* note 123.

131. *Id.*

shown through the State party signing an optional protocol to the treaty.<sup>132</sup>

For the inter-State communications and inquiry procedures, consent may be refused if the State party opts out of these procedures when joining the treaty, or if the State party later declares its derecognition of the treaty committee's power to subject it to either of these proceedings.<sup>133</sup> If a State party opts out of the inter-State communications procedure, the principle of reciprocity would prevent the State party from utilizing the procedure against other States parties.<sup>134</sup> How easily a State party can opt out of the inquiry procedure depends on how the treaty is drafted: if a treaty circumscribes the conditions for State parties to opt-out of the procedure, then the ability to opt-out would be less flexible.<sup>135</sup> The International Convention for the Protection of All Persons from Enforced Disappearance, for example, does not give States parties the ability to opt-out of the inquiry procedure.<sup>136</sup>

After a thorough review of the information provided by a State party regarding its implementation of the treaty, a treaty committee will publish its concluding observations for the State party.<sup>137</sup> The concluding observations detail the treaty committee's concerns and recommendations for that specific State party, as well as their general conclusions for all States parties.<sup>138</sup> The review process is cyclical, providing treaty committees the

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132. *See id.*

133. *Id.*

134. *Id.*

135. *See id.* The requirements for a State party to opt out of the inquiry procedure varies amongst different treaties. *See id.* For example, under some treaties, "State[] parties may opt out from the inquiry procedure, at the time of signature or ratification or accession." *Id.* However, other treaties allow a State party to opt out at "anytime . . . by making a declaration that they do not recognize the competence of the Committee in question to conduct inquiries." *Id.*

136. *Id.* Under Article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance, States parties do not have the power to denounce the treaty committee's competence in exercising an inquiry procedure against the States parties. International Convention for the Protection of All Persons from Enforced Disappearance art. 33, Dec. 20, 2006, 2716 U.N.T.S. 3.

137. *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108.

138. *Id.*

opportunity to continually assess whether and how States parties are implementing their recommendations.<sup>139</sup>

In addition to the periodical review process, treaty committees may implement follow-up procedures.<sup>140</sup> Committees may have an interest in following up with States parties on pressing matters that can be remedied in a discernable time span.<sup>141</sup> The follow-up review process effectively mirrors the periodical review process.<sup>142</sup> Committees using follow-up procedures vary in the amount of time they allot to the State party to implement changes and report on its progress.<sup>143</sup> The committees review the information retrieved from the follow-up procedure with supplementary information from other UN bodies or non-governmental organizations.<sup>144</sup> Finally, they draft and publish an assessment of the State party's progress.<sup>145</sup>

### *C. An Analogue: The Committee on the Elimination of Discrimination against Women*

Of particular interest is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>146</sup> CEDAW is distinct from other human rights treaties as it mandates a holistic cultural change that goes beyond the letter

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139. *Id.*

140. *Follow-Up to Concluding Observations*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/Pages/FollowUpProcedure.aspx> (last visited Jan. 6, 2021).

141. *Id.*

142. *Compare id.* (the State party under review must submit a report detailing the changes it has implemented in response to the Committee's issues for the follow-up review, which is then exemplified by a "Follow-Up Rapporteur" against the Committee's highlighted concerns and "all available sources of information") *with Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108 (State parties must submit a report to the Committee detailing how it is implementing the provisions of the treaty and upon review, and this report is considered by the Committee alongside any information from outside sources that the Committee chooses to consider).

143. *See generally Follow-Up to Concluding Observations*, *supra* note 140.

144. *Id.*

145. *Id.*

146. *See generally* Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.



of the domestic law and into cultural and social practices.<sup>147</sup> The mandate does not supplement these ambitious expectations with incentives or enforcement mechanisms that are any greater than the other human rights treaties.<sup>148</sup>

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) oversees the Convention's implementation amongst States parties.<sup>149</sup> There are 23 members of CEDAW at a given time, each appointed by the States parties for a term of four years.<sup>150</sup> CEDAW members are "independent experts who are persons of high moral standing and competence in the field covered by the . . ." treaty and are expected to serve in their personal capacity rather than as representatives of their respective States.<sup>151</sup>

States party to CEDAW can also choose to be subject to the CEDAW Optional Protocol, which allows the CEDAW Committee to accept complaints against those States parties and subject them to inquiry proceedings.<sup>152</sup> Under the Optional Protocol, if a complaint is brought to the CEDAW Committee using the individual communications procedure, the claim will not be considered if the complainant has not exhausted their options for domestic recourse, except if the domestic "remedies [are] unreasonably prolonged or unlikely to bring effective relief."<sup>153</sup>

The CEDAW Committee uses initial and regular reporting procedures to generally monitor the States parties' implementation of the treaty.<sup>154</sup> CEDAW mandates an initial report from States parties within their first year of entering the treaty into

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147. Neil A. Englehart & Melissa K. Miller, *The CEDAW Effect: International Law's Impact on Women's Rights*, 13 J. HUM. RTS., 22, 23 (2014).

148. *See id.*

149. *Committee on the Elimination of Discrimination against Women*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/CEDAW/pages/cedawindex.aspx> (last visited Jan. 1, 2020).

150. *Committee on the Elimination of Discrimination against Women: CEDAW Elections*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Elections.aspx> (last visited Jan. 1, 2020).

151. *Id.*

152. *See generally* Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Oct. 6, 1999, 2131 U.N.T.S. 83.

153. *Id.* art. 4.

154. Convention on the Elimination of All Forms of Discrimination against Women, *supra* note 146, art. 18.

force, followed by a regular report submitted at least every four years and upon CEDAW's request.<sup>155</sup> The regular report specifies the measures the State party has adopted in an effort to effectuate the treaty's mandates.<sup>156</sup>

The CEDAW Committee considers the reports at its annual sessions, where government representatives of each State party can discuss the report and the State's particular implementation methods with the committee members.<sup>157</sup> The meeting with the State party's representative is a structured, time-constrained, constructive dialogue during which specific components of the report are addressed in turn.<sup>158</sup> Consistent with the Addis Ababa guidelines on impartiality and independence,<sup>159</sup> CEDAW Committee members will recuse themselves from proceedings relating to the State party of their national origin.<sup>160</sup>

The CEDAW Committee adopts and issues concluding observations for each State party's report in a closed meeting with the State party's representative following the proceedings.<sup>161</sup> Each State party under review has a member of the committee designated to it as a rapporteur, who is primarily charged with

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155. *Id.*

156. *Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979: Introduction*, U.N. HUM. RTS.: OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> (last visited Jan 3, 2020).

157. *Id.*

158. *Committee on the Elimination of Discrimination against Women: Working Methods*, *supra* note 121.

159. Ivona Truscan, *The Independence of UN Human Rights Treaty Body Members*, 1 GENEVA ACAD. INT'L L. & HUMANITARIAN RTS., 1, 33 (2012), <https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20Independence%20of%20UN%20Human%20Rights%20Treaty%20Body%20MembersGenevaAcademGeneva.pdf>. Treaty bodies decide the working methods and rules of procedure for their operations, so the Addis Ababa "Guidelines on the independence and impartiality of members of the human rights treaty bodies" encourage members of treaty committees to uphold impartiality and independence when performing their duties. *Id.*; Guidelines on the Independence and Impartiality of Members of the Human Rights Treaty Bodies, U.N. Doc. A/67/222, annex 1, (Aug. 2, 2012) [hereinafter *Addis Ababa Guidelines*].

160. *Committee on the Elimination of Discrimination against Women: Working Methods*, *supra* note 121; *Addis Ababa Guidelines*, *supra* note 159.

161. *Committee on the Elimination of Discrimination against Women: Working Methods*, *supra* note 121.

drafting the committee's concluding observations for consideration and adoption during the closed meeting.<sup>162</sup> The State party under review has an opportunity to review the committee's adopted concluding observations and provide their factual responses within a timely manner.<sup>163</sup> Finally, the observations are made available on the OHCHR website.<sup>164</sup>

Article 21 of CEDAW allows the CEDAW Committee to provide general recommendations for all State parties in addition to its State party-specific recommendations.<sup>165</sup> The general recommendations have broad applicability as they "provide guidance on the content of the legal obligations of States parties under the Convention."<sup>166</sup>

In the spirit of efficiency, the CEDAW Committee has implemented various methods to encourage the fulfillment of State parties' reporting obligations.<sup>167</sup> CEDAW's secretariat sends reminders to States parties for overdue reports and the States parties are allowed to provide a single, consolidated report in lieu of multiple overdue reports.<sup>168</sup> The CEDAW Committee also collaborates with other bodies of the UN and nongovernmental organizations to have a well-informed approach to its operations.<sup>169</sup>

CEDAW's effects on women's rights were quantitatively measured in a 2014 study.<sup>170</sup> Using statistical models with controls for confounding factors and different measures of robustness,<sup>171</sup> the study found that CEDAW has a positive effect on women's political rights, an attenuated but demonstrably positive effect on women's social rights, and no effect on women's economic rights.<sup>172</sup>

The researchers first tested their findings against the argument that the positive effects of CEDAW may actually be inflated by the States parties that have a predisposition to ful-

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162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.*

169. *Id.*

170. See generally Englehart & Miller, *supra* note 147, at 22–47.

171. *Id.* at 25–31.

172. *Id.* at 38.

filling the demands of CEDAW.<sup>173</sup> This predisposition may be credited to their existing political and social structures, suggesting that these effects could have occurred even in the absence of CEDAW.<sup>174</sup>

Next, the researchers tested their findings against the argument that the positive effects of CEDAW could be inflated by States parties doing the bare minimum to implement CEDAW, meaning that the State party makes easier changes to satisfy certain components of CEDAW but avoids more difficult changes.<sup>175</sup> For example, a State party may create the illusion of compliance by codifying certain rights for women, but later neglect the implementation of enforcement mechanisms for those rights.<sup>176</sup>

Finally, the researchers tested their results against the argument that the general global trend is toward increasing women's rights, suggesting that the Convention itself is not the source of these results.<sup>177</sup> The authors concluded that these arguments could not fully explain the positive effects of CEDAW on women's political and social rights.<sup>178</sup> CEDAW has a positive impact on women's political and social rights despite its ambitious mandate and low scope for enforcement.<sup>179</sup>

### III. A MULTILATERAL HUMAN RIGHTS TREATY FOR PROTECTING INTERNET ACCESS

Access to the internet could be protected through a multilateral treaty between member States of the UN. Although a treaty would not completely offset instances of governments unnecessarily interfering with the internet, a multilateral treaty could discourage such interferences over time by normalizing an obligation to protecting internet access.<sup>180</sup>

Such a treaty would be suitable under the existing body of human rights conventions because internet access is intertwined with other human rights concerns and protecting inter-

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173. *Id.* at 31.

174. *Id.*

175. *Id.* at 35.

176. *Id.*

177. *Id.* at 36.

178. *Id.* at 38, 39.

179. *Id.* at 38, 41.

180. *See generally id.* at 22–47.

net access would also protect these relevant concerns.<sup>181</sup> This treaty should accordingly be monitored by the OHCHR. Rather than providing suggestions for the substantive provisions of the proposed treaty, the interest here is to explore how the treaty's implementation could be monitored.

#### *A. The Initial and Periodical Review Processes*

The approach to monitoring the implementation of a treaty or convention to protect internet access should be primarily modeled after the measures taken by the CEDAW Committee to implement CEDAW. CEDAW's mandate is considered ambitious and distinct from the aspirations of other human rights treaties because it calls for "fundamental change[s] at the legal, institutional, and individual levels . . ." without greater incentives for enforcement.<sup>182</sup> Providing protections for internet access will also likely require fundamental legal and institutional changes, as was the case with CEDAW's implementation.<sup>183</sup>

The treaty committee should follow CEDAW and the other human rights treaty committees in implementing the Addis Ababa guidelines and operate with impartiality and independence.<sup>184</sup> Similar to the CEDAW Committee's initial, regular, and inquiry-based reporting procedures,<sup>185</sup> the committee should rely on a combination of information gathering procedures.

The treaty should require States parties to provide an initial report of their current laws and procedures relevant to internet access and internet censorship. The States parties should also summarize how these laws and procedures were altered to comply with the treaty during the first year of implementing the treaty's provisions.

The periodic reports required by the treaty should follow a bi-annual or tri-annual reporting model. Although CEDAW's four-year reporting model is an option,<sup>186</sup> four years may be too long

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181. See Special Rapporteur, A/HRC/17/27, *supra* note 10, at 7; see also De Hert & Kloza, *supra* note 4, at 2, 5.

182. *Id.* at 23.

183. See *id.*

184. Truscan, *supra* note 159, at 33; *Addis Ababa Guidelines*, *supra* note 159.

185. Convention on the Elimination of All Forms of Discrimination against Women, *supra* note 146, art. 18.

186. *Id.*

of a waiting period in the context of internet restrictions. The form and function of the internet are rapidly evolving,<sup>187</sup> foreshadowing that the impact of internet restrictions could become increasingly detrimental as internet usage touches multiple aspects of daily life.<sup>188</sup> Annual reports may be cumbersome for some States parties due to resource inequality,<sup>189</sup> so a longer lapse in time between these periodic reports might lessen the burden while holding States parties accountable for regular reporting. A longer interval between reporting periods will probably not nullify the systematic delays in reporting, but it will probably help reduce the delays.<sup>190</sup>

The reports should include a record of the instances of internet restriction over the period in review, the reasons for the imposition of each restriction, and the social and economic impact of the restrictions. Additional information that the treaty committee may have an interest in obtaining could relate to the State party's domestic laws relating to the internet restrictions and general information regarding domestic political matters. Upon receiving and reviewing this information, the committee would vet the practices of these States parties and distinguish between internet restrictions imposed for legitimate government concerns and internet restrictions imposed for other, more dubious purposes. While reviewing the States parties' reports, the treaty committee should also consider information received from certain outside sources, such as other UN bodies and nongovernmental organizations.<sup>191</sup> This measure would allow the treaty committee to have a holistic approach to the review and constructive dialogue process.<sup>192</sup>

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187. See Steve Richmond, *Preparing for the Rapid Evolution of 5G*, FORBES: TECH. COUNCIL (Nov. 5, 2020, 9:10 AM), <https://www.forbes.com/sites/forbestechcouncil/2020/11/05/preparing-for-the-rapid-evolution-of-5g/?sh=5619a5fc158a> ("Given the rapid evolution of technology, it is important to recognize that what you need to be able to do is different today than what you needed to be able to do yesterday.").

188. See Edwards, *supra* note 13; see also Frangoul, *supra* note 14.

189. See *Overview of the Current Treaty Body System*, *supra* note 107, at 9, 10.

190. See *id.*

191. *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108.

192. See *id.*

The treaty committee should implement follow-up procedures as many other human rights treaty committees do.<sup>193</sup> The follow-up procedure should address pressing concerns that the treaty committee finds during a State party's periodical review. For efficiency, the follow-up procedure should be a targeted examination of the committee's specific concerns, so that the State party need only provide information relevant to the concerns, which could minimize the State party's reporting costs.<sup>194</sup>

*B. Targeted Review Processes in Light of Possible Treaty Violations*

The treaty committee should utilize inquiry, individual communications, and inter-State communications procedures. All three of these procedures allow a State party to be subject to particularized review in light of external information about potential violations committed by the State party.<sup>195</sup> Ideally, a treaty would make it so that States parties would be unable to opt-out of these useful procedures, but complete inflexibility on these procedures would be difficult to achieve.<sup>196</sup> The committee could adopt an optional protocol for one or more of these procedures, which may encourage more UN Member States to join this treaty for the flexibility of the targeted review process.

If there is reliable information suggesting that a State party's internet restrictions have resulted in human rights violations, then the committee should initiate an inquiry procedure for the State party in question.<sup>197</sup> Like the proposed general reporting procedure, the committee should rely on information derived from the different communications procedures as well as in-

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193. *Follow-Up to Concluding Observations*, *supra* note 140.

194. As resource concerns are a cause for delay in both reporting and inquiry procedures, similar concerns would likely arise for reports submitted for a follow-up procedure. See *Overview of the Current Treaty Body System*, *supra* note 107, at 9. However, "despite the additional reporting burden presented by [the follow-up procedure], States have generally responded well to the treaty body's requests." *Id.* at 11.

195. *Id.* at 5.

196. See generally *Human Rights Bodies - Complaints Procedures*, *supra* note 123.

197. See *Monitoring the Core International Human Rights Treaties: What do the Treaty Bodies Do?*, *supra* note 108; *Overview of the Current Treaty Body System*, *supra* note 107, at 5.



formation derived from independent, nongovernmental sources.<sup>198</sup>

Access Now and CIVICUS are two online resources that have monitored internet restrictions for many years<sup>199</sup> and can be useful to the committee. Both have expertise in this area and publish annual reports detailing the state of internet access in the world.<sup>200</sup> It may be worthwhile for the committee to confer with and encourage investment into entities like Access Now and CIVICUS to efficiently monitor treaty compliance.

The treaty should also provide for inter-State communications procedures. Although inter-State procedures are underutilized, the option should be available in case a need for it arises, like in 2018 when there were inter-State communications submitted to the treaty committee overseeing the Convention on the Elimination of All Forms of Discrimination.<sup>201</sup>

The individual communications procedure is important for this treaty's primary objective. The nature of internet restrictions is such that some people may not be able to contact the treaty committee due to deterring factors like a lack of connectivity. The treaty should provide that the complaints could either be made by the individual or group of individuals who are alleging a wrong against the State party, or by a representative of those people.<sup>202</sup> Like CEDAW's approach, this trea-

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198. See *Committee on the Elimination of Discrimination against Women: Working Methods*, *supra* note 121; see also *Monitoring the Core International Human Rights Treaties: What Do the Treaty Bodies Do?*, *supra* note 108 (explaining that other human rights monitoring bodies also collaborate with nongovernmental organizations).

199. ACCESS NOW, *supra* note 16. CIVICUS is a "global civil society alliance" that monitors global occurrences that impact civic space in different societies, including restrictions of the Internet. *About Us*, CIVICUS, <https://monitor.civicus.org/about/aboutcivicus/> (last visited Sept. 17, 2020).

200. MARIANNA BELALBA BARRETO, JOSEF BENEDICT, DÉBORA LEÃO, SYLVIA MBATARU, AARTI NARSEE & INE VAN SEVEREN, CIVICUS, PEOPLE POWER UNDER ATTACK 2020: A REPORT BASED ON DATA FROM THE CIVICUS MONITOR, 2, 9 (2020), <https://civicus.contentfiles.net/media/assets/file/GlobalReport2020.pdf>; see also TAYE, *supra* note 17.

201. *Human Rights Bodies - Complaints Procedures*, *supra* note 123.

202. A common and available approach to the individual communications procedure is that "[o]ne may also bring a claim on behalf of another person on condition that his/her written consent is obtained (without requirement as to its specific form). In certain cases, one may bring a case without such consent, for example, where a person is in prison without access to the outside

ty should also require the committee to determine whether the complainant has methods of recourse under their domestic law or if the potential of domestic recourse would be ineffective in that case.<sup>203</sup> This measure would allow the committee to efficiently work through the received complaints.

### *C. Appealing to the UN Security Council*

The nature of the human rights violations presented in India, Ethiopia, and Venezuela have escalated to the point of physical threat to people subject to internet restrictions. Specifically, the high volume of government-enabled killings, arrests, other threats to civilians in the affected regions should be regarded as grave threats to human rights.

Many countries that use internet restrictions are doing so with increased frequency.<sup>204</sup> In India, instances of violence and legal measures targeting Muslims have increased over the course of the Modi administration, and the internet restrictions in Kashmir can be contextualized within that broader discriminatory narrative.<sup>205</sup> In Venezuela, internet restrictions have been utilized by the Maduro administration to repress expressions of opposing political thought and the resultant unrest has harmed civilians.<sup>206</sup> In Ethiopia, the internet restrictions and resultant violations suggest a long-running political narrative involving the Oromo Liberation Front and other narratives of

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world or is a victim of an enforced disappearance. In these cases, the author of the complaint should state clearly why such consent cannot be provided.” *Human Rights Treaty Bodies - Individual Communications*, U. N. HUM. RTS.: OFFICE OF THE HIGH COMM’R, <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx> (last visited Feb. 21, 2021).

203. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, *supra* note 152, art. 4.

204. See TAYE, *supra* note 17, at 1.

205. See Jeffrey Gettleman, Vinu Goel & Maria Abi-Habib, *India Adopts the Tactic of Authoritarians: Shutting Down the Internet*, N.Y. TIMES (Dec. 19, 2020, updated Dec. 20, 2019), <https://www.nytimes.com/2019/12/17/world/asia/india-internet-modi-protests.html>.

206. See generally Ciara Nugent, ‘Venezuelans Are Starving for Information.’ *The Battle to Get News in a Country in Chaos*, TIME (Apr. 16, 2019, 10:21 AM), <https://time.com/5571504/venezuela-internet-press-freedom/>; Herro & Specia, *supra* note 67.

social activism.<sup>207</sup> The restrictions in Ethiopia have resulted in killings and mass detentions.<sup>208</sup> In all three of these regions, internet shutdowns have also significantly harmed the lives and livelihoods of the disconnected.<sup>209</sup>

It can be argued that the cumulative harm resulting from internet restrictions in these regions, especially when contextualized in other patterns of human rights violations, gravely threatens human rights. Such a threat should prompt intervention from the UN Security Council.<sup>210</sup> Given the trends of internet restriction in the world,<sup>211</sup> it is likely that these violations will increase in size and scale in the future.

If a multilateral treaty is adopted to protect internet access, then the treaty committee may have grounds to appeal to the UN Security Council to intervene when matters escalate to such grave levels of threat. The Security Council would have a greater scope for enforcing treaty compliance amongst the violating States parties because the Security Council has the power to impose economic sanctions and deploy peacekeeping bodies.<sup>212</sup>

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207. See generally *Ethiopia: Communications Shutdown Takes Heavy Toll*, *supra* note 53; Oromo, MINORITY RTS. GRP. INT'L, <https://minorityrights.org/minorities/oromo/> (last visited [DATE]); Conor Gaffey, *Oromo Protests: Why Ethiopia's Largest Ethnic Group is Demonstrating*, NEWSWEEK (Feb. 26, 2016, 12:48 PM), <https://www.newsweek.com/oromo-protests-why-ethiopias-biggest-ethnic-group-demonstrating-430793>.

208. Anna, *supra* note 59.

209. See generally Mbewa, *supra* note 61 (“[a]s a result [of the internet shutdown]. . . industries or businesses which are dependent on internet access to make profits or achieve social impact will essentially be shunned by investors. Digital services have also begun being integrated into Ethiopia’s traditional sectors making them susceptible to negative effects”); *India Restores Internet in Kashmir After 7 Months of Blackout*, *supra* note 40 (as a result of the internet shutdown in Kashmir, “[l]ocal tech companies had to close or relocate to other areas of India, suffering heavy losses,” caused 150,000 job losses and prevented internet-dependent medical, educational, and communication activities); Herrera, *supra* note 64 (internet shutdowns exacerbate the efforts of the Venezuelan government to control the flow of information to Venezuelans, making it difficult for the people to receive the news, reliable or not).

210. See *Protect Human Rights*, *supra* note 86.

211. See de Gregorio & Stremlau, *supra* note 2 at 4224–25; TAYE, *supra* note 17, at 1.

212. See *Protect Human Rights*, *supra* note 86.

## CONCLUSION

Government restrictions on internet access have increased over the past few years in light of civil unrest and for purportedly legitimate interests.<sup>213</sup> The nature and impact of these restrictions, however, render many of these reasons dubious,<sup>214</sup> which should call for government accountability.

No international law expressly provides a fundamental right to protecting internet access.<sup>215</sup> The Human Rights Council, however, has recognized internet access as being related to the fundamental right to freedom of opinion and expression.<sup>216</sup> As a result, internet access is only protected as a component of a larger body of law and there is no international entity that specifically, persistently, and holistically reviews impediments to internet access.<sup>217</sup>

Given how pervasive the effects of internet restrictions can be and how frequently governments utilize methods to interfere with internet access,<sup>218</sup> people around the world would benefit from greater protection of their access to the internet. This protection can be achieved through a multilateral treaty between UN Member States under the UN Human Rights Council. The committee that would be tasked with monitoring the implementation of the treaty would be in a position to review and vet the actions of States parties.

As the internet constantly evolves and we grow increasingly reliant upon it,<sup>219</sup> the real effects of losing internet access are

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213. de Gregorio & Stremlau, *supra* note 2, at 4228. See Solomon, *supra* note 1; see also Tworek, *supra* note 1.

214. See de Gregorio & Stremlau, *supra* note 2, at 4228, 4236; Solomon, *supra* note 1; Tworek, *supra* note 1.

215. Solomon, *supra* note 1.

216. H.R.C. RES. 7/36, *supra* note 10, at 2; see also Special Rapporteur, A/HRC/17/27, *supra* note 10 at 1, 7.

217. See H.R.C. RES. 7/36, *supra* note 10, at 3–4. (explaining how the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (Special Rapporteur) is tasked with monitoring internet restrictions as a part of their mandate on monitoring violations the freedom of opinion and expression); see also *About the Mandate*, *supra* note 102. Violations of the freedom of opinion and expression can be made through various types of interferences with modes of communication, not solely through interferences of the internet. See *id.*

218. See de Gregorio & Stremlau, *supra* note 2, at 4228, 4236; Solomon, *supra* note 1; Tworek, *supra* note 1.

219. See Virjan, *supra* note 14, at 119, 123; Frangoul, *supra* note 14; Edwards, *supra* note 13. See generally Yan, *supra* note 14.

substantial.<sup>220</sup> We should aspire to normalize the protection of our access to this vital resource and hold State governments accountable when they interfere with it.

*Harpreet Kaur\**

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220. See Mbewa, *supra* note 61 (a single shutdown lost the Ethiopian over one hundred million dollars and threatened both established and fledgling internet-based businesses and industries); Anna, *supra* note 59 (in addition economic losses, the shutdown made human rights abuses difficult to track during a period of violence and unrest); *India Restores Internet in Kashmir After 7 Months of Blackout*, *supra* note 40 (the internet shutdown imposed in Kashmir caused 150,000 lost jobs, uprooted technological companies, prevented critically-ill patients from accessing internet-dependent health-related services, interfered with students from applying to fellowships and scholarships, and effectively insulated people from communicating with the outside world); Solomon, *supra* note 1 (an internet shutdown was imposed in a regions of Myanmar where persecuted minorities reside and the shutdown was followed by “a surge in civilian casualties”); Rendon, *supra* note 63 (the Venezuelan government uses internet restrictions to silence opposing political opinions and it has “collect[ed] citizens’ information from the internet to use it against them; and has significantly stifled the work of journalists); Herrera, *supra* note 64 (internet restrictions were imposed by the Venezuelan government during an attempted military uprising in an effort to prevent the dissemination of information to Venezuelans and to prevent the organization of protests).

\* B.A. Colgate University (2018); J.D., Brooklyn Law School (2022); Editor-in-Chief *Brooklyn Journal of International Law* (2021–2022). I dedicate this note to my parents, Boota Singh and Surjit Kaur, immigrants from India who raised my sisters and I with unwavering love and support. My father, who passed a short while ago, helped me forge my love for International Relations from a young age when we would watch the BBC *World News* together. I miss him dearly and am incredibly grateful for his firm faith in me and my successes. I would also like to dedicate this note to my brilliant, wonderful, and loving sisters, Tajinder, Navneet, and Kushmeet Kaur. Thank you to Jean Davis, Professor David Reiss, and members of the *Brooklyn Journal of International Law* staff who meticulously and generously helped me develop this Note. Thank you to the people of Venezuela, Ethiopia, and India who continue to advocate for their rights and their preferred governance, including the farmers and laborers of India, who are resiliently protesting for their livelihoods and spreading awareness using the internet. All errors or omissions my own.