

2014

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Recommended Citation

Flynn-Schneider, Andrea. "Inter-Governmental Organizations." *Human Rights Brief* 21, no. 1 (2014): 67-68.

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INTER-GOVERNMENTAL ORGANIZATIONS

UN MILLENNIUM DEVELOPMENT GOALS TO INCORPORATE A RIGHTS BASED APPROACH

During the 68th United Nations General Assembly, world leaders addressed the need to have the post-2015 Millennium Development Goals (MDGs) written from a human rights based approach. As the United Nations urges progress toward the eight anti-poverty targets set forth in 2000, concerned advocates note that future targets need to be aligned with human rights treaty obligations. U.N. High Commissioner for Human Rights Navi Pillay stated that U.N. action on human rights is falling short, and stressed that the new set of development goals “must be rooted on human rights and the rule of law . . . to ensure progress.” A human rights approach to MDGs, she argues, would create legally binding enforcement mechanisms, which could thereby strengthen government accountability.

The United Nations Human Rights Committee (UNHRC) affirmed in *The Millennium Development Goals and Human Rights* Report that current post-2015 MDGs are only political commitments, and are not legally binding. The report addresses each goal and how MDGs could be written to correspond to matching human rights standards. For example, Goal 3, “Promote Gender Equality and Empower Women,” directly relates to UDHR Article 25, to name just one of the many treaties that relate to this objective. By tying in human rights obligations to the MDG agenda, the UNHRC hopes that governments will work harder to meet each goal because there will be a legally enforceable framework. Additionally, those who the MDGs are meant to impact will largely have a right to remedy when minimum standards and MDGs are not met.

Currently, states report on progress made toward MDGs but fail to include corresponding human rights responsibilities. This reporting process often leaves out women and marginalized groups since the MDGs do not currently contain any obligation to address discrimination and exclusion. The UNHRC argues that by requiring a report on human rights obligations in

connection with MDG reports, states will understand and ensure equal weight and attention to the goal and corresponding right.

Some critics argue, however, that incorporating a human rights framework into MDGs makes it difficult to prioritize development objectives. In addition, many critics note the weakness of human rights treaty enforcement mechanisms that do not prompt state action or create a sense of legal obligation to fulfill the new MDGs. Moreover, skeptics argue that a human rights approach does not necessarily advocate specific policy choices or the precise distribution of government resources.

On the other side, proponents assert that a human rights framework helps prioritize rights by affording minimum standards that cannot be violated, standards that apply in connection to MDGs. Certain rights would be prioritized for different circumstances, for instance, if a right was generally ignored or if that right could act as a catalyst. Although it may sometimes prove difficult to hold states responsible for their international commitments to human rights, proponents contend that human rights treaties promote a participatory process and incorporate many accountability mechanisms, including the MDGs. Thus, proponents of a combined rights-based/MDG agenda argue that just as states may feel more compelled to meet MDG goals if they are tied to human rights obligations, simultaneously advocates may have additional mechanisms to enforce human rights if they are tied to MDGs.

The Office of the High Commissioner for Human Rights (OHCHR) suggests four key elements in adapting a human rights approach to the MDGs. First, MDGs should be aligned with enumerated human rights obligations. Second, OHCHR urges a more transformational system that promotes participation from all agents, not just those in the government. Third, rights need to be prioritized within policy and resource distribution so that certain rights do not conflict with one another. Fourth, all parties must be held accountable for failures to meet targets, both by judicial

and non-judicial means. This includes international donors, corporations, and intergovernmental organizations.

International cooperation will be imperative as the U.N. seeks to implement human rights into the future MDGs. While the General Assembly debated over partnerships and development, Deputy Secretary-General Jan Eliasson stressed the importance of linking in human rights to the debate. “There is no peace without development. There is no development without peace. But there is no development or peace without human rights.”

UNITED NATIONS URGES COMPREHENSIVE LAWS REGARDING RIGHT TO PRIVACY

As innovations in technology increase global communications and electronic surveillance techniques, many believe that governments need to aggressively protect online privacy while simultaneously upholding international human rights standards, or otherwise risk severely limiting freedom of speech. U.N. Special Rapporteur Frank La Rue urges the need for more comprehensive laws regulating what constitutes necessary and legitimate surveillance. Similarly, the United Nations Human Rights Council (UNHRC) also advocates that all countries take measures to protect the rights of digital privacy, stating that, “insufficient national legal frameworks create a breeding ground for arbitrary and unlawful violations of the right to privacy in communications and, therefore, also threaten the protection of the right to freedom of opinion and expression.” While international law establishes a general right to privacy, some argue that a more secure legal framework needs to be created in line with human rights standards in order to protect that right.

The Universal Declaration of Human Rights (UDHR) establishes privacy as a fundamental human right in Article 12, requiring that “[n]o one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection

of the law against such interference or attacks.” Furthermore, the International Covenant on Civil and Political Rights (ICCPR, art. 17), the Convention on the Rights of Child (art. 16) and the International Convention on Protection of All Migrant Workers and Members of Their Families (art. 14) all address privacy as a human right. In fact, nearly every country in the world recognizes the right to privacy within their Constitution. Despite the many international treaties confirming a right to privacy, privacy still has many definitions and touches on many adjacent rights. However, the right to privacy is often understood as the right to autonomous development free from state intervention, as well as the ability of individuals to determine who holds information about them and how that information is used.

Relevant human rights documents, such as the UDHR and ICCPR, were drafted before the Internet emerged and therefore prior to a concept of digital privacy. Today, however, digital privacy is recognized as an important human right because so many people store and transmit private information through this medium. In fact, many argue that online privacy has become one of the most important human rights issues of the modern age. UNHRC Ambassador Eileen Chamberlain Donahoe has said that, “human rights in the [online] world are as real as human rights in the off-line world.” However, despite

the multiplicity of privacy laws, Special Rapporteur La Rue suggests, “the specific content of [the right to privacy] was not fully developed by international human rights protection mechanisms at the time of its inclusion” in the human rights documents.

New developments in high-speed networks, mass media, and advance processing systems allow governments, in pursuit of “national security,” to access information on individuals to a far greater capacity than the average user can even understand. “As our lives become more digitized, unchecked surveillance can corrode everyone’s rights and the rule of law,” says Cynthia Wong, Senior Internet Researcher at Human Rights Watch.

The European Union has enacted a unique directive, which provides citizens with a wide range of protections for their data. The “Telecommunications Directive” enforces specific protections that cover all digital networks from phones to television, setting a baseline for data protection law throughout the E.U. All data collection requires “explicit and unambiguous” consent of the user under the Directive. Similarly, Special Rapporteur La Rue requests that the U.N. Human Rights Committee (HRC) consider issuing a new General Comment to replace the 1988 General Comment No. 16 to further address the right to privacy in a technically advanced age. New measures, argues Mr.

La Rue, are needed to develop and protect digital privacy because the current lack of specific language within the treaties and conventions regarding digital privacy pose a threat to human rights in the online world.

As electronic commerce and mass media continue to grow, and threats to national security remain prevalent, comprehensive laws addressing digital privacy are high ranking among the pressing concerns of the United Nations. La Rue argues that, “without adequate legislation . . . to ensure privacy . . . journalists, human rights defenders and whistleblowers, for example, cannot be assured that their communications will not be subject to [s]tates’ scrutiny.” In order to safeguard freedom of speech, as well as legitimate privacy concerns, La Rue believes that individuals should be notified when they are subjected to communications interferences, and that legislation should stipulate that supervision must be used only in exceptional circumstances under the supervision of a judicial authority. In today’s online world, digital privacy rights may need to be more comprehensively protected in order to meet international human rights standards guaranteed to individual privacy and freedom of speech.

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