



**ASSOCIATION FRANÇAISE
POUR LES NATIONS UNIES
Aix-en-Provence**

CALL FOR PAPERS

L'Observateur des Nations Unies – volume 38

- Human rights 2.0: What protection in the digital age? -

Issue 38 (2015-1) of *L'Observateur des Nations Unies* will address the following theme: "Human rights 2.0: What protection in the digital age?" AFNU – Aix-en-Provence releases to this end a call for papers.

You will find below a brief description of this research project as well as a timetable for contributors.

Details of the research project

"Information is power, and economic information is economic power."
Louis Joinet

The nexus between human rights and information and communication technologies (ICT) is not new. To address the gross of computerized personal data collection, the first legislative responses emerge in the early 1970s. Numerous international organizations adopt normative frameworks,¹ while others elaborate technical standards.² The spring of internet and today of big data and cloud computing highlight the limits of the normative stakes defined more than thirty years ago.

If ICT are a fertile ground for a new public sphere and a fundamental tool for implementing governance principles such as transparency and participation, they have direct

¹ *Inter alia* the Organization for Economic Cooperation and Development (OECD), the Council of Europe and later the European union, the Asia-Pacific Economic Cooperation (APEC), the United Nations, the International labour organization (ILO) or the International chamber of commerce (ICC).

² Such as the International telecommunication union (ITU), the International organization for standardization (ISO), the Organization for the Advancement of Structured Information Standards (OASIS) or the Cloud Security Alliance.

consequences on the right to life (armed and/or automated drones), the right of peaceful assembly, the right to join trade unions, the right to a tribunal (online courts), the right of minorities (*local content*), the right to take part in the conduct of public affairs, the right to private life, economic, social and cultural rights, freedom of expression, the right to freedom of thought, conscience, religion, association, human dignity, prohibition of torture or cruel, inhuman or degrading treatments,³ of discrimination and of propaganda for war and national, racial or religious hatred.⁴

ICT question traditional normative models. They maintain a fluctuating relationship to the effectiveness of norms, increasingly transnational, to the risk of the emergence of digital havens, on the model of tax havens. Bulk data collection and storage, in particular outside national boundaries, often discards legality. Regulations are regularly breached.⁵ On the contrary, extraterritorial norms are a global tool incentivizing respect for fundamental rights.⁶ The normative corpus mixes soft law and hard law, sometimes merging technical standards and legal norms (*Privacy by design*).

They are located at the confluence of various *lex specialis* of international law: arms exports regulations, international trade law, competition law, consumer law, intellectual property law and health law. Similarly, they hold a prominent position in a current movement of privatization of human rights enforcement, in particular with the advent of the concept of due diligence for corporations.⁷

They are characterized by a redefinition of governance modes which is questionable with regards to the right of peoples to self-determination and the right to take part in the conduct of public affairs: *regulatory cooperation*⁸ or private regulators such as the *International corporation for assigned names and numbers* (ICANN), the *Internet Society* (ISoc) or the *World wide web consortium*.

³ See in France the investigations opened against IT companies Amesys and Qosmos regarding the export of surveillance technologies to regimes accused of perpetrating torture in Libya and Syria.

⁴ See debates on administrative closure of websites for incitement to perpetrate and condoning terrorist acts introduced in France by Law n° 2014-1353 of 13 november 2014.

⁵ See the behaviour of Google in Europe against whom fines have been levied on several occasions.

⁶ See the applicability of personal data provisions of the Sarbanes-Oxley Act (US) and the Dodd-Frank Act (US) to foreign companies or the right to be forgotten elaborated by the Court of Justice of the European Union covering companies incorporated in the United States of America.

⁷ OECD guidelines and UN guiding principles directed at enterprises.

⁸ International organizations act as rule makers through a governance network, under the guidance, for instance, of the OECD. An example of such cooperation network is the Article 29 Data Protection Working Party at the European Union level.

More generally, consideration must be given to the pitfalls of a “governance through numbers” or an “algorithmic governmentality”.⁹ In the 1930s, Charles de Gaulle was warning that mechanization and motorization of armies were decisive assets in term of power. What if today the reasoning was the same regarding control of information and digital data?

This new issue of *L’Observateur des Nations Unies* will seek to provide useful input to the study of perspectives mentioned above. Contributions may adopt the following approaches, through both a review of positive law and a prospective analysis:

- A theoretical approach: the stake will be to question governance models, their inherent logic, as well as their shortcomings or their absence (*governance gap*). What role can play the concept of state sovereignty, traditionally providing the protection framework for human rights, in the elaboration, the adoption and the implementation of norms of international law related to ICT? What incidence may have the growing role of experts and the rise of a kind of “technocratization”? The impact of governance on arbitrary restrictions or restrictions conflicting with the principles of legality, proportionality and necessity may be an axis of research.
- A material and institutional approach: what are the bodies empowered to elaborate norms and settle disputes today in the ICT sector? What is the scope of these norms, their content, their flaws (*regulatory gap*)? What are the interactions between norms and institutions and between the various *lex specialis* of international law? What is the extent of norms circulation or norms cross-fertilization? What role for civil liability, both contractual and extra-contractual, and private international law? What emerging role for private actors and economic operators?

Timetable for contributors

AFNU – Aix-en-Provence invites all persons interested by the present call for papers to submit their proposal no later than May 31, 2015 at the following email address obsnu38@gmail.com (title of the proposed article, short presentation of the topic and of the questions discussed: 400 words).

AFNU – Aix-en-Provence will inform authors no later than June 14, 2015 of the outcome of the selection by the review’s scientific committee.

⁹ See *inter alia* the works of Alain Supiot and Antoinette Rouvroy.

A summary of the upcoming issue 38 of *L'Observateur des Nations Unies* including the list of selected proposals and the contact details of authors will also be sent to contributors so that they may have an overview of the distribution of the various research themes and a means to exchange views with the other persons involved in drafting the issue.

Final articles in French or English (of a recommended length of 30 000 to 40 000 characters, excluding footnotes) will have to be sent to obsnu38@gmail.com no later than 14 October 2015 in MS Word .doc format. Publication is scheduled for December 2015.

Arnaud POITEVIN
PhD candidate at CNRS
Issue chief editor