



**The European International Model United Nations 2016**

## **Human Rights Council**



Photo source: PrivateInternetAccess.com.

*Right to Uncensored Internet*

## **Welcome Letter**

Distinguished delegates,

As The European International Model United Nations (TEIMUN) conference quickly approaches, we would like to welcome you to The Hague. Whether you are an experienced delegate or a first time model UN participant, we hope that each of you will leave TEIMUN with friends, memories, and a greater knowledge of the United Nations.

The Greek philosopher, Heraclitus, once said, "The only thing that is constant is change." Since the inception of the United Nations, we have witnessed changes and shifts in international standards for human rights, creating new challenges for the future. Within the Human Rights Council, we will be discussing two topics, the legal recognition and protection for transgender individuals and the right to uncensored internet. As chairs, we are looking forward to lively debates, fruitful resolutions, and great fun. During this intense week both in and out of the committee room, we encourage you to take advantage of this great opportunity to get out of your comfort zone and embrace this truly unique experience that is TEIMUN.

Should you have any questions, remarks or simply want to have a chat, please feel free to come to us at any point during the week. We hope to meet you all in person very soon, and welcome to TEIMUN!

Your chairs,

Teele Murphy & Erin Heeter  
*HRC@teimun.org*

## **Introduction**

Across the world, states vary on their stances regarding censorship in relation to what their citizens can and cannot view. This applies to newspapers, news websites, social media, books, and any other forms of information that a state may deem dangerous to citizens. In the twenty-first century, this term is most commonly applied to the Internet. Many citizens use encryption to keep their information secure and safe from hacking and spying from governments or other entities. There are many states who use violence and intimidation tactics to censor the Internet and what the media displays on the Internet about governments and other sensitive topics. Some states such as China use strong surveillance and censors to block international media and news from their citizens Internet. In the 21st century, censorship has shifted its focus and therefore States have changed the implementation of censorship. With access to the Internet growing day by day, governments around the world are constantly changing tactics and keeping up with new technology. The HRC must decide on the Internet's impact upon the freedom of speech, and if access to the Internet is a human right.

## **Background**

It is crucial to acknowledge the positive effects on economic growth and prosperity that the Internet brings into countries along with innovation and opportunity. On average, the Internet contributes to 3.4 percent of a State's GDP.<sup>1</sup> Once this resource is established within a State, there are regulations and guidelines put in place.

As with most issues, views on Internet censorship vary drastically across the globe. Some governments believe the security of the State trumps the privacy of its citizens. Other citizens and governments see these precautions as overbearing and unlawful according to the State's governing legislation and laws. Since the late 1960s and the creation of the Internet, there has been a struggle of power for control of this international communication, information, and resource center. Here, a quick definition of encryption, with regards to personal computers and the Internet, is necessary. The term encryption refers to the use of an algorithm and key to protect a user's private data from being accessed by a third-party.<sup>2</sup> The third-party could be hackers, corporations, or the government. For example, the dispute between Apple and the US Federal Bureau of Investigation concerns decrypting the personal phone of one of the shooters at San Bernardino in December 2015

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<sup>1</sup> Pélissié du Rausas, M., Manyika, J., et al. "Internet matters: The Net's sweeping impact on growth, jobs, and prosperity." McKinsey Global Institute. May 2011.

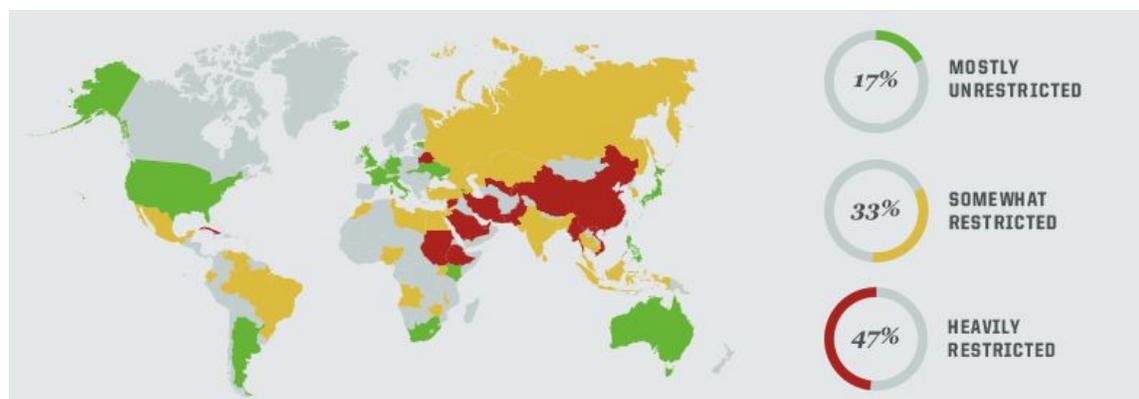
<http://www.mckinsey.com/industries/high-tech/our-insights/internet-matters>.

<sup>2</sup> Margaret Rouse, "What is encryption?" *Searchsecurity*. Accessed 25 April 2016.

and demonstrates the slippery slope of government access to encrypted items.<sup>3</sup>

### Censorship Around the World

Many States censor the press within their own borders. Some claim the necessity of censorship for the safety of all, while other governments assert that censorship is essential to catch and apprehend Internet criminals who perform illegal acts through encryption and anonymity.<sup>4</sup>



**Figure 1:** "Freedom on the Net 2013", Freedom House.

In Venezuela, Internet usage has grown rapidly while censorship tries to keep pace. The former investigations editor of *Ultimas Noticias*, Tamoia Calzadilla, resigned from her job because of the underground censorship happening within the company.<sup>5</sup> Anonymous buyers bought the news outlet and demanded changes to stories and investigations. Calzadilla told the *Columbia Journalism Review*, "This is not your classic censorship, where they put a soldier in the door of the newspaper and assault the journalists. Instead, they buy the newspaper, they sue the reporters and drag them into court, they eavesdrop on your communications and then broadcast them on state television. This is censorship for the 21st century."<sup>6</sup>

Eritrea is one of the most oppressive States when it comes to censorship. The only news is written and circulated by State-run media outlets. Many independent reporters have either been indefinitely jailed or exiled from Eritrea. This is classic censorship, without even discussing the censorship of

<sup>3</sup> Katie Benner and Eric Lichtblau, "U.S. Says It Has Unlocked iPhone Without Apple," *The New York Times*. 28 March 2016.

<sup>4</sup> "UN Special Rapporteur for Freedom of Opinion and Expression: 2014 Annual Report." International Justice Resource Center. Accessed February 13, 2016. <http://www.ijrcenter.org/2015/06/08/un-special-rapporteur-for-freedom-of-opinion-and-expression-2014-annual-report/>

<sup>5</sup> Bennett, P., Naim, M. 21st Century Censorship. *Columbia Journalism Review*. Accessed February 14, 2016. [http://www.cjr.org/cover\\_story/21st\\_century\\_censorship.php](http://www.cjr.org/cover_story/21st_century_censorship.php)

<sup>6</sup> *Ibid.*

the Internet within the country. Fewer than one percent of the population has access to the Internet, drastically reducing the impact of global media and Internet presence within the state.<sup>7</sup> President Afewerki has maintained tight control over the Internet during his tenure as well. In 2011 Eritrea decided to stop plans to provide mobile Internet access, therefore denying its citizens access to rapid Internet. According to the UN International Telecommunication Union, less than one percent of the population of Eritrea has access to the Internet. This largely limits access to independent information that has not been censored by the government.<sup>8</sup> Compounding the problem, Eritrea also has an extremely low rate of cell phone usage, at a 5.6 percent population use of cellular devices. This limitation of access to the Internet reduces the need for governmental involvement in the Internet.

China is often seen the prime example of government-sponsored Internet censorship, and for good reason. Of the more than three billion Internet users worldwide, 22% are located in China. In comparison, less than 10% of Internet denizens are American.<sup>9</sup> The Chinese government monitors and regulates the "Great Firewall", which prevents 'unacceptable' Internet access, including foreign media sites and content.<sup>10</sup> For example, of the world's 30 most visited websites, 16 are blocked in China, including massively popular sites like Facebook and Google.<sup>11</sup> Instead, the Chinese have created alternative websites, such as Baidu for Google and Weibo for Twitter. To some international commentators, the goal is to "foster an Internet society that doesn't concern itself with politics or current affairs," and indeed the result is oftentimes a society that knows little of recent history.<sup>12</sup> The Chinese government has other ways of restricting access too. In areas like Hong Kong where the government must respect free press based on a treaty, the government has taken a different tack. In the spring of 2015, with the memories of the Umbrella Revolution still fresh, Tam Tak-chi and Barry Ma were both arrested for Facebook posts that authorities argued "incited others to commit illegal acts".<sup>13</sup> Defenders of these men, and other social media activists, say that the government was unfairly exploiting the ambiguity of "access to computer with criminal or dishonest intent" found in Section 161 of the Crimes Ordinance.<sup>14</sup>

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<sup>7</sup> Attacks on the Press. 10 most censored countries, 2015. Committee to Protect Journalists. <https://cpj.org/2015/04/10-most-censored-countries.php>

<sup>8</sup> Attacks on the Press. 10 most censored countries, 2015. Committee to Protect Journalists. <https://cpj.org/2015/04/10-most-censored-countries.php>

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> Murong Xuecun, "Scaling China's Great Firewall," *The New York Times*, 17 August 2015.

<sup>12</sup> *Ibid.*

<sup>13</sup> Quoted in Jennifer Zhang, "Hong Kong's Activist Social Media Culture Under Threat," *The Diplomat*, 14 June 2015.

<sup>14</sup> *Ibid.*

In Freedom House's report on worldwide Internet freedom, Iran ranked near the bottom, next to China and Cuba, primarily due to its efforts to promote a 'halal' Internet.<sup>15</sup> As the presidential election neared in 2013, more and more Iranian citizens found their Internet connections unbearably slow and access to basic URLs, such as local banks and small businesses, barred.<sup>16</sup> Foreign websites like Google also became so painstakingly slow that they were rendered unusable. This pushed more Internet users to the high-speed national network, giving the government more power to regulate access to websites. Building on the 'halal internet,' the government introduced the search engine, Yooz, specifically to counter the popularity of Google, Yahoo, and Bing.<sup>17</sup>

### **Right to an Uncensored Internet and Personal Security**

The situation is not entirely one-sided, however. Many states view Internet access as the key to development and actively promote an uncensored Internet within their states. The same Freedom House's report that rated Iran so poorly named Estonia as the freest country for Internet access.<sup>18</sup> Since the fall of the Soviet Union and subsequent freedom, Estonia has invested heavily in its information and communications technology sector with significant results. It has an Internet penetration rate of 77% and high levels of access in schools. Additionally, Estonia allows its citizens to vote online, file taxes, and use other government services over the Internet.<sup>19</sup> This type of environment is seen by many as positive and conducive to education and collaboration. By allowing citizens to access the Internet at such high rates they have a connection to an immense amount of information and connections with other individuals around the world. However, some States see this level of censorship as too lenient. States censor to protect their citizens and the country as a whole. If a State allows its citizens to have full access to the Internet and uses the Internet for public services such as voting or tax submission, they may be accused of foul play or hacking if the system fails. This can fall back on the government for not having stricter security and and censorship.

"But first they have to know what is being censored",<sup>20</sup> argues Marjorie Heins. Many social media outlets and search engines filter content. For example, if someone searches for sexual education material, Google may

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<sup>15</sup> Faine Greenwood, "Estonia Nabs Top Spot As The Country With The 'Freest' Internet," *UN Dispatch*, 28 September 2012.

<sup>16</sup> Daisy Carrington, "Iran tightens grip on cyberspace with 'halal internet,'" 3 June 2013.

<sup>17</sup> Doug Bernard, "Iran's Next Step in Building a 'Halal' Internet," *Voice of America*, 9 March 2015.

<sup>18</sup> Greenwood, "Estonia Nabs Top Spot."

<sup>19</sup> *Ibid.*

<sup>20</sup> Heins, M. "The Brave New World of Social Media Censorship." *Harvard Law Review*. 2014. Accessed February 13, 2016.

<http://harvardlawreview.org/2014/06/the-brave-new-world-of-social-media-censorship/>

filter “sexually explicit” content out from what may be actual educational tools. However, unless the information pursuer is explicitly searching for a specific website or article, they may not be aware that the search is being filtered. This limits the information an individual can access through search engines and social media.<sup>21</sup> By censoring the Internet, some citizens may feel that their rights are being infringed upon. Parents may feel that it is necessary to censor “sexually explicit” information and pictures for the safety of their children but educators and other adults may feel that this censorship is affecting their right to an uncensored internet.

### Special Rapporteur

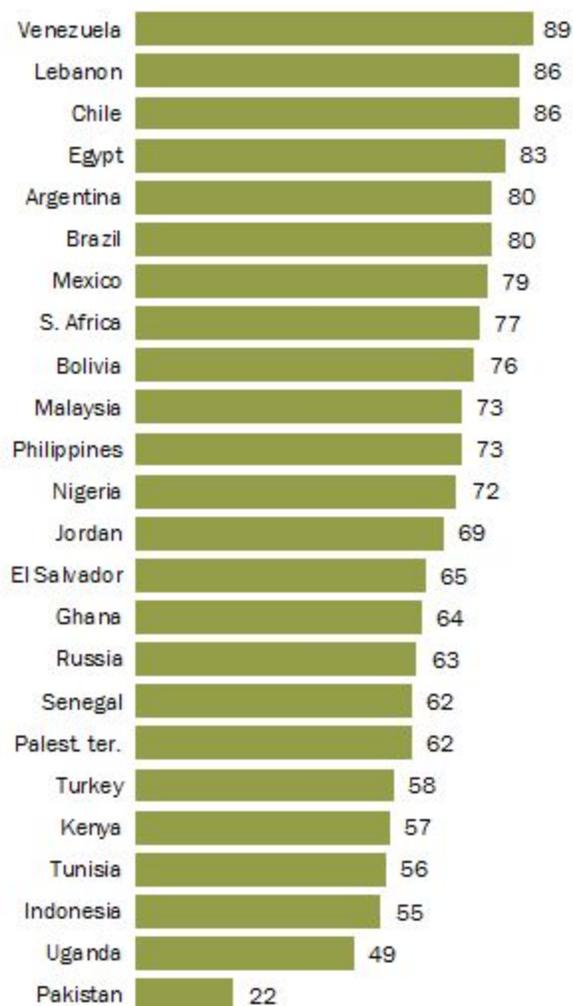
The United Nations has commissioned a Special Rapporteur to investigate how states handle Internet access rights and government censorship of Internet access. The Special Rapporteur is mandated by HRC Resolution 7/36 “to make recommendations and provide suggestions on ways and means to better promote and protect the right to freedom

of opinion and expression in all its manifestations,” among other responsibilities.<sup>22</sup> The 2015 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression by David Kaye discusses how privacy, encryption, and censorship affect

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### Most Want Uncensored Internet Access

*% saying it is important that people have access to the internet without government censorship*



Source: Spring 2013 Global Attitudes survey, Q71.

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<sup>21</sup> *Ibid.*

<sup>22</sup> OHCHR. “Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.” Retrieved March 7th 2016.

citizens and their governments.<sup>23</sup> Kaye reports how citizens use encryption and anonymity to hide their Internet usage and other forms of communication from the government or criminals. He cites different forms of encryption and anonymity that citizens can use to protect their identity from prying eyes. The report also outlines why States believe they have the right to monitor the Internet. Illegal activities happen on the Internet frequently, and many governments claim the necessity of backdoor access to the Internet and the ability to monitor its citizens activities in order to minimize illegal activities.

The Special Rapporteur reports on the rights to privacy, codified in the International Covenant on Civil and Political Rights, to which 168 states have signed. This covenant relies on each state to provide privacy and the protection of such for all citizens. Many international organizations have pushed for the acceptance of privacy statutes to apply to the digital age and other forms of expression as we move forward as a global society. In the first article of the Universal Declaration of Human Rights, it states that every global citizen is "endowed with reason and conscience".<sup>24</sup> This statement is later reiterated within the International Covenant on Civil and Political Rights, stating "everyone shall have the right to hold opinions without interference."<sup>25</sup> Both statements apply today in regards to Internet privacy and freedom of speech on the Internet without fear of repercussion from the government or other agencies monitoring citizens movements on the Internet.

"Some States impose content-based, often discriminatory restrictions or criminalize online expression, intimidating political opposition and dissenters and applying defamation and lese-majeste laws to silence journalists, defenders and activists."<sup>26</sup> The Special Rapporteur discusses how states enforce censorship on citizens, which inhibits the human rights of opinion and expression. This censorship restricts the opportunities for individuals to express themselves and the option to educate oneself about other states, politics, religion, beliefs, etc. that may not be available through another source.

The Special Rapporteur states that many States do not adequately justify the need for censorship and encryption tools. The Rapporteur continues to

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<sup>23</sup> Kaye, D. "United Nations Special Rapporteur report on the promotion and protection of the right to freedom of opinion and expression." 2015.

<sup>24</sup> *Ibid.*

<sup>25</sup> Kaye, D. "United Nations Special Rapporteur report on the promotion and protection of the right to freedom of opinion and expression 2015 Section B, 19." 2015.

<sup>26</sup> Kaye, D. "United Nations Special Rapporteur report on the promotion and protection of the right to freedom of opinion and expression 2015 Section C, 23." 2015.

express apprehension that States do not engage in the proper analysis set forth by the United Nations. However, the Rapporteur discusses the constructive advancements that have been made by some States such as the Netherlands, Sweden, Canada, the United Kingdom of Great Britain and Northern Ireland, and the United States. "These States fund the training of individuals to use encryption and anonymity tools to evade censorship and protect their online security."<sup>27</sup> In 2014 Brazil passed the Marco Civil da Internet law that protects the anonymity of user communications online and only allows the disruption of this privacy by court order. Austria passed the E-Commerce Act and Telecommunications Act, which does not restrict encryption within the State.<sup>28</sup>

### **Right To Be Forgotten**

In 2014, the European Court of Justice, the highest court in the European Union, ruled that its citizens had the right to influence or control what was read about them online.<sup>29</sup> Proponents of the ruling believe that the measure would work as a self-corrective to the last 20 years of an Internet with little oversight, where information on individuals was readily attainable, whether the individual wanted it to be or not. However, some see a darker future for the Internet as a result of this ruling. James Waterworth, of the Computer and Communications Industry Association, said of the ruling, that it "opens the door to large-scale private censorship in Europe."<sup>30</sup> Today, European state officials are encountering problems enforcing the right to be forgotten. While Google, Europe's largest search engine by far, has removed search results on its European platforms, google.fr or google.de for example, the banned results still appear on its primary, American, version google.com. In March 2016, French regulators fined the company because this was not enough.<sup>31</sup> Now, Google is using 'geo-blocking' to block European users from viewing the banned results even on google.com. While this might be a logical solution to Google's problem, some commentators see this as no better than censorship. In an op-ed for *The New York Times*, Daphne Keller and Bruce D. Brown even went so far as to say, "Walling off national Internet sectors also lends legitimacy to countries like China, Turkey and Iran that have long controlled what information their citizens can view online."<sup>32</sup>

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<sup>27</sup> *Ibid.*

<sup>28</sup> OHCHR. "UN Special Rapporteur for Freedom of Opinion and Expression: 2014 Annual Report." June 8th 2015.

<sup>29</sup> David Streitfeld, "European Court Lets Users Erase Records on Web," *The New York Times*. 13 May 2014.

<sup>30</sup> Quoted in *ibid.*

<sup>31</sup> "Right to be delisted: the CNIL Restricted Committee imposes a €100,000 fine on Google," Commission nationale de l'informatique et des libertés. 24 March 2016.

<sup>32</sup> Quoted in Daphne Keller and Bruce D. Brown, "Europe's Web Privacy Rules: Bad for Google, Bad for Everyone," *The New York Times*. 25 April 2016.

## **Questions a Resolution Must Answer (QARMAS)**

1. Does the UDHR declare Internet access as a universal human right?
2. Can states restrict citizen's Internet access?
3. How does encryption affect the reach and effectiveness of a state's stance on Internet censorship?
4. Do states have legal grounds to breach the privacy of its citizens for the security of the entire state?
5. What balance must be struck between a right to privacy and Internet censorship?

*Authors: Teele Murphy, Erin Heeter. TEIMUN 2016.*