

Cyber Challenges to International Human Rights

Title: The territorial State's responsibility for the "information blockade" in areas out of its effective control – restoring "Internet sovereignty"?

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Abstract:

In regions where the State having the sovereign title over the territory (territorial State) has lost effective control as a consequence of internal or international armed hostilities, the de facto authorities usually prohibit operators and providers of telecommunications services to freely disseminate information. Consequently, the economic rights and freedom of expression of service providers and journalists are hindered, and people living in those territories have limited access to information. For de facto authorities, cybersecurity is meant to protect against the use of cyberspace to challenge their authority, whereas international human rights law obliges the territorial State to take all measures within its power to protect human rights in the area out of its effective control. Applying this broadly framed, so-called "due diligence duty" to the freedom of expression in the cyberspace seems particularly problematic, given the fact that the territorial State tends to similarly restrict the telecommunication channels of terrorist activities and that it lacks the means to enforce its laws in the given area. However, treaty monitoring bodies recommended various positive measures (e.g. restoration of transmission towers, enlarging the broadcasting capacity) that any territorial State shall take while seeking to restore its "Internet sovereignty" in the separatist region.