

I thank you for this opportunity to comment on the Internet Universality Indicators.

I will be restricting my comments to the Rights section. At the outset, I would like to stress the need for UNESCO to recognise the human rights based approach to internet as part of this document and thereby the principles of universality and indivisibility of rights. Perhaps also ask for human rights impact of ICT policies.

Theme A - POLICY, LEGAL AND REGULATORY FRAMEWORK		
<ul style="list-style-type: none"> There is a problem with the following paragraph: <i>The UN Human Rights Committee [28] and the General Assembly [29] have affirmed that ‘the same rights that people have offline must also be protected online.’ The UN Human Rights Council has adopted several resolutions on ‘the promotion, protection and enjoyment of human rights on the Internet,’ which address aspects of these and subsequent questions and indicators, most recently in 2016. [30] Footnote 28 refers to a HRC resolution. I think the reference to the HR Committee should be changed to HR Council.</i> Suggest replacing international rights agreement with international human rights law and standards. The line on “A number of regional rights agreements have also been agreed.” Either needs clarification or explaining. <p>Are there any <i>additional themes, questions or indicators</i> which you believe should be included in the framework?</p> <ul style="list-style-type: none"> Do laws governing the internet recognise human rights? Do laws governing and regulating the internet adopt a human rights based approach? Were the laws governing the internet developed and assessed involving multi-stakeholder participation? 		
	Are there any suggestions that you wish to make in respect of the <i>proposed themes, questions and indicators</i> which are included in the framework as it stands?	What <i>sources and means of verification</i> would you recommend, from your experience, in relation to any of the questions and indicators that have been proposed?
<p>A.1 Is there a legal framework for the enjoyment and enforcement of human rights which is consistent with international rights agreements and with the rule of law?</p> <p>Indicator: Existence of an established legal framework which is consistent with international (including regional) rights agreements, and evidence that it is respected and enforced by government</p>	<p>Substitute rights agreement with international human rights standards</p> <p>Suggest international and regional instead of including regional</p>	Legal documents – primarily constitution.
<p>A.2 Does the law recognise that rights and laws apply equally online and offline?</p> <p>Indicator: Evidence that the principle of online/offline equivalence is accepted in principle and implemented in practice</p>	<p>I am not sure this is the case in most countries. Human rights, in most countries has been long established, at least in principle. What we are looking for is the extension of the rights to online</p>	Jurisprudence and legislation

	spaces as well. I doubt if the law would specifically identify this. Suggest changing this to “are the rights guaranteed offline extended to online spaces as well?”	
A.3 Do citizens have access to due process to address violations of rights, online and offline, by state or non-state actors? Indicator: • Legal framework for due process • Availability of arrangements for redress in terms of service of online service providers	What rights are being discussed? If it is all rights, would it be better to restrict to online? I think the question is about redressal and enforcement of rights in addition to due process. Suggest extending citizens to individuals and perhaps entities as well. Instead of online service providers suggest using internet intermediaries.	Jurisprudence and legislation including procedural laws
A.4 Are law officers, judges and legal professionals trained in issues relating to the Internet and human rights? Indicator: • Availability of relevant courses and proportions of relevant personnel who have undertaken or completed training	Suggest adding National Human Rights Institutions including women’s and child rights institutions.	Training materials and data on actual trainings

Theme B – Freedom of Expression

- Instead of stating that Article 19 of UDHR and ICCPR ‘deal’ with, it would be better to say guarantee freedom of expression and opinion.
- Instead of regional rights agreements also include relevant provisions, would be better to state that regional agreements/mechanisms/ instruments also guarantee these rights. This line should be moved to before the discussion on limitations.
- I would suggest that one of the most significant aspects recognised by General Comment 34 relates to ensuring that restrictions do not render the right in itself ineffective. Furthermore, GC 34 is the primary document which extends freedom of expression to online spaces and mediums. This should be recognised in the explanatory text.

Are there any *additional themes, questions or indicators* which you believe should be included in the framework?

- Anonymity, whistleblowing, encryption
- It would be good to have an indicator on hate speech and steps taken by the state to mitigate it

<ul style="list-style-type: none"> It would be good to also see the extent to which the state perpetrates violence or abuse against individuals for exercising freedom of expression online 		
	<p>Are there any suggestions that you wish to make in respect of the <i>proposed themes, questions and indicators</i> which are included in the framework as it stands?</p>	<p>What <i>sources and means of verification</i> would you recommend, from your experience, in relation to any of the questions and indicators that have been proposed?</p>
<p>B.1 Is freedom of expression guaranteed in law, respected in practice, and widely exercised? Indicators:</p> <ul style="list-style-type: none"> Constitutional or legal guarantee of freedom of expression consistent with ICCPR Article 19, and evidence that it is respected and enforced by government³⁴ Constitutional or legal guarantee of press/media freedom Assessment by credible agencies of extent and diversity of expression online and offline 	<p>Suggest making space to enquire as to whether CSOs, journalists and HRDs can exercise their freedom of expression and assess the extent to which this right is guaranteed. Perhaps add CSOs after credible agencies.</p> <p>Instead of government suggest state or state entities</p>	<p>Legislations, constitution, UPR reports and NHRI reports</p> <p>CCPR concluding observations, SR reports</p>
<p>B.2 Are any restrictions on freedom of expression in policy and practice narrowly defined, transparent and implemented in accordance with international rights agreements and HRC resolutions? Indicator:</p> <ul style="list-style-type: none"> Legal restrictions on freedom of expression are consistent with international rights agreements (including regional agreements) and respected by government 	<p>Instead of “Are any of the restrictions” suggest “ Are the restrictions”</p> <p>Suggest using international law, standards and norms</p> <p>HRC resolution is not necessarily the best to mention here</p> <p>Suggest international and regional instruments</p>	<p>Legislation and jurisprudence</p>
<p>B.3 Is there significant ex ante or ex post censorship of specific content posted on online services, applications or websites, and on what grounds is this exercised? Indicator: Quantitative and qualitative evidence of ex ante and ex post censorship</p>	<p>Suggest adding to this indicator. Is content posted on services, applications or websites subjected to greater censorship than offline content? – alternatively simplify as internet intermediaries</p>	<p>Cases reported in media</p>
<p>B.4 Under what conditions does the law hold platforms and other online service providers liable for content published by them?</p>	<p>The term proportionally implemented is unclear. Consider</p>	<p>Transparency reports of platforms, RTI requests, legislation and regulation</p>

<p>Indicator: <ul style="list-style-type: none"> • Legal framework for intermediary liability and content regulation is consistent with international rights agreements (including regional agreements) and proportionally implemented </p>	<p>rephrasing</p> <p>In many cases this is not necessarily done through statutory process. For eg. Cambodia and Pakistan have used government memos to direct platforms to take certain actions.</p> <p>Suggest changing published by them to published on</p> <p>Suggest changing international agreements to standards as it is not clear as to what these agreements might be</p>	
<p>B.5 What proportion of the population generates online content, including social media? Indicator: <ul style="list-style-type: none"> • Numbers of bloggers, microbloggers and users of social media services per hundred population and per hundred Internet users </p>	<p>I am not clear as to whether this question is about how many people use social media or how many generate content. Please reconsider phrasing. More interesting to see disaggregated data by gender, age, geography, etc.</p>	<p>ISP Data and data from platforms</p>
<p>B.6 Are low-cost online services available which enable citizens and civil society organisations to make use of the Internet to express their views? Indicators: <ul style="list-style-type: none"> • Availability of low-cost blogging and webhosting services • Legal restrictions, if any, on access to such services • Incidence of use of social media and blogging services </p>	<p>Can we consider asking about open source here? Beyond low-cost, there should be open and free services available.</p> <p>I am not sure what we mean by incidence of use of social media.</p>	
<p>B.7 Are citizens, journalists or bloggers subject to arbitrary detention, prosecution or intimidation for disseminating information online on political and social issues? Indicators: <ul style="list-style-type: none"> • Nature of legal provisions and practice • Numbers of detentions and prosecutions for online expression </p>	<p>Suggest adding expressing opinion and disseminating information</p> <p>Add number of convictions for intimidating citizens, journalists or bloggers</p>	<p>Criminal bureau records, media reports</p>
<p>B.8 Do journalists or citizens practice self-censorship in order to avoid harassment by government or online abuse? Indicators: <ul style="list-style-type: none"> • Evidence of self-censorship by journalists/bloggers • Evidence of self-censorship as a result of </p>	<p>Suggest adding minorities to the list of persons in the 2nd indicator</p> <p>Change citizens to individuals</p>	<p>Interviews and CSO reports</p>

online abuse, particularly by women and children/ young people		
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THEME C – RIGHT TO INFORMATION

- Would be good to recognise the central role RTI plays in governance and to enable people the right to participate in public life.

Are there any *additional themes, questions or indicators* which you believe should be included in the framework?

- When it comes to RTI, perhaps a line on the need for greater pro-active disclosure by state using online mediums would be good. While the indicators focus on information as in general content, the focus also needs to be on state responsibility to put out information using digital platforms.

	Are there any suggestions that you wish to make in respect of the <i>proposed themes, questions and indicators</i> which are included in the framework as it stands?	What <i>sources and means of verification</i> would you recommend, from your experience, in relation to any of the questions and indicators that have been proposed?
<p>C.1 Is the right to information guaranteed in law and respected in practice? Indicators: Constitutional or legal guarantee of access to information consistent with international rights agreements (including regional agreements) and evidence that it is respected and enforced by government</p>	<p>This question should be followed by whether these laws also allow for using online mediums to make requests and obtain information. Essentially whether states have started the process of digitising information.</p> <p>Comment on rights agreement and regional agreements as before.</p>	Constitution, legislation, CSO reports, UPR and NHRI reports
<p>C.2 Does the government block or filter access to the Internet or to specific online services, applications or websites, and on what grounds is this exercised? Indicators: • Evidence concerning formal and informal restrictions on Internet access and use • Numbers and trend of content access restrictions, takedowns of domain names and other interventions during the past twelve months</p>	<p>This indicator seems more like a FoE related one than RTI</p> <p>Suggest broadening government to state bodies and regulators.</p> <p>The indicator should also question whether the process or procedure for doing this is clear and transparently enforced.</p> <p>The practice of takedowns and shutdowns vary in different countries. Suggest changing number to instances.</p>	RTI requests, CSO reports, ISP data
<p>C.3 Are citizens, journalists or bloggers subject to detention, prosecution or intimidation for accessing information online, particularly on political and social issues? Indicators:</p>	<p>Change citizens to individuals.</p> <p>Change international agreement to international standards</p> <p>Remove nature – just legal provisions and practice</p>	Criminal records, media reports and CSO reports

<ul style="list-style-type: none"> • Nature of legal provisions and practice • Numbers of detentions and prosecutions for access to content which is not prohibited by international agreement 		
<p>C.4 Is a wide variety of news sources and viewpoints on issues of national importance available online, without discrimination?</p> <p>Indicators:</p> <ul style="list-style-type: none"> • Evidence concerning diversity and plurality of local content, including disaggregation by gender and socio-economic factors • Diversity of newspapers and news operations concerned with local news, online and offline • <i>Consideration should be given and cross-reference made to data/evidence for Category X Question D.7 which is concerned with the manipulation of information.</i> 	<p>Add indicator on instances where inconvenient content was taken down</p> <p>Change national importance to public interest. Local, regional, and global issues are relevant too, and who decides if something is important. Anything of interest should be available.</p> <p>Suggest adding political to socio-economic</p> <p>Not sure if offline diversity is relevant to internet universality. Suggest analysing only online media content.</p>	<p>CSO and media reports</p>

THEME D – FREEDOM OF ASSOCIATION AND THE RIGHT TO PARTICIPATE IN PUBLIC LIFE

In the explanatory text it would be good to explain what freedom of assembly and association online means. “Freedom of assembly and association (FoAA) online refers to peoples’ use of information and communication technologies (ICTs) to exercise their rights to peaceful assembly or association, either offline or online.¹

Are there any *additional themes, questions or indicators* which you believe should be included in the framework?

- We need to explore the question of whether individuals and CSOs are able to freely assemble and associate to protest and mobilise online

	Are there any suggestions that you wish to make in respect of the <i>proposed themes, questions and indicators</i> which are included in the framework as it stands?	What <i>sources and means of verification</i> would you recommend, from your experience, in relation to any of the questions and indicators that have been proposed?
<p>D.1 Is freedom of association guaranteed in law and respected in practice? Indicators: Existence of an established legal framework that is consistent with international rights agreements, and evidence that it is respected and enforced by government</p>	Suggest extending the question to whether this guarantee to be afforded to online spaces through law.	Constitution and legislation
<p>D.2 Can civil society organisations organise effectively online? Indicators: Evidence of online organisation by civil society, and absence of interference with such Organisation</p>	<p>Add freely to effectively</p> <p>Add individuals and civil society organisations – organise freely for any lawful cause as per international standards</p> <p>This relates to the definition issue you raised above, but it’s not just about organising online, but using the internet to organise offline.</p> <p>Suggest adding assemble and associate. These are not the same but distinct, yet related rights.</p> <p>Add indicator on whether there have been instances of intimidation, prosecution for organising or associating online</p> <p>Whether CSO pages or protest pages were taken down online</p>	CSO reports, media reports

¹ Freedom of assembly and association online in India, Malaysia and Pakistan: Trends, challenges and recommendations

<p>D.3 Is there a government policy for e-government and e-participation which encourages citizen participation in government? Existence of government policies for e-government and e-participation, including use of the Internet for public consultation Values/rankings in UNDESA's e-government and e-participation indices</p>	<p>I am not sure if this indicator relates to governance or FoAA.</p>	
<p>D.4 Are government websites available which enable citizens to undertake a wide range of e-government activities securely online as well as offline? Indicators: <ul style="list-style-type: none"> • Number of e-government services and users (disaggregated by gender) • Extent to which data on e-government sites are protected by encryption and cybersecurity • Credible reports concerning cybersecurity of government websites and services (e.g. use of https) </p>	<p>Same as above – not sure if this fits in the FoAA discussion</p> <p>Instead of suggest “protected by encryption and cybersecurity “Are robust cybersecurity measures in place to ensure the availability, confidentiality, and integrity of e-government sites.</p>	

THEME E – PRIVACY

Perhaps recognition that right to privacy in the digital age has serious impact on the ability of individuals to develop their personality

In intro, add ref to GC 17 and mention HRC resolutions in the last sentence. The refs to anonymity and encryption were in the HRC resolution (34/7), not UNGA.

General point: check language for consistency and precision. See Necessary and Proportionate principles for guidance.

Are there any *additional themes, questions or indicators* which you believe should be included in the framework?

- Biometric and national identity systems
- Are there instances of states or non-state actors carrying out mass surveillance?
- Check if data relating to citizens on government websites are stores in a safe manner

	<p>Are there any suggestions that you wish to make in respect of the <i>proposed themes, questions and indicators</i> which are included in the framework as it stands?</p>	<p>What <i>sources and means of verification</i> would you recommend, from your experience, in relation to any of the questions and indicators that have been proposed?</p>
<p>E.1 Is the right to privacy guaranteed in law and respected in practice? Indicator:</p> <ul style="list-style-type: none"> • Constitutional or legal definition of privacy and right to privacy 	<p>This indicator should also probe whether this protection extends to online and digital spaces and communications.</p> <p>This indicator should match the one on FoE, i.e. Constitutional or legal guarantee of the right to privacy and evidence that it is respected and enforced by government. Procedural safeguards should be added somewhere.</p>	<p>Constitution and legislation</p>
<p>E.2 Is the protection of personal data guaranteed in law and enforced in practice, with respect to governments, businesses and other organisations, including rights of access to information held and to redress? Indicators:</p> <ul style="list-style-type: none"> • Existence of a legal framework for data protection, including monitoring mechanisms and means of recourse and redress, and evidence that it is respected and enforced by government • Existence of legal framework governing commercial use of 	<p>Personal data would have to be defined or explained. Suggest changing it to data protection.</p> <p>This is a complex question , suggest breaking it down.</p> <p>Remove existence</p> <p>The second bullet covers commercial use, but government held data needs to be addressed somewhere too.</p> <p>I think this needs to be more explicit that data protection</p>	<p>Legislation and CSO reports</p>

<p>personal data and international data transfer, including monitoring mechanisms and means of recourse and redress</p> <ul style="list-style-type: none"> • Existence of an independent data protection authority 	<p>regulations should cover the collection, analysis, use, storage, and transfer of data.</p>	
<p>E.3 Are the powers of law enforcement and other agencies for the surveillance of Internet users necessary, proportionate and limited to circumstances which are consistent with international rights agreements? Indicator: Legal framework for surveillance, and evidence concerning implementation</p>	<p>Change to electronic surveillance</p> <p>The indicator should enquire as to whether procedures and limits for electronic surveillance either by the state or at the behest of the state are clear and publicly available. The indicator for this could be whether these are necessary and proportionate as well as legal.</p> <p>Add subject to judicial authorization, procedural safeguards, independent oversight, access to remedy</p> <p>Add legal and legitimate</p>	<p>Legislation and CSO reports</p>
<p>E.4 Are any requirements for identification and registration, including communications registration, necessary, proportionate and consistent with international rights agreements? Indicator: • Existence and nature of identity and registration requirements, including verification processes</p>	<p>Define communications registration</p> <p>If this is in relation to national identity or biometric systems – we should make it clear. If not, we should add this.</p>	
<p>E.5 Are data encryption and online anonymity protected in law and practice in a way that is consistent with international rights agreements? Indicator: • Existence of a legal framework consistent with international rights agreements and evidence that it is respected by government.</p>	<p>Instead of data encryption consider encryption for communication and data</p> <p>Add indicator asking if individuals have been prosecuted for anonymity or for using encryption?</p> <p>Might also want to include regulations requiring that encryption is required for services of a certain size or that provide e-gov services.</p>	<p>Legislation, media reports and CSO reports</p>
<p>E.6 Do citizens have legal rights to protect their online identity and to manage or correct information concerning them online, in ways that protect both privacy and</p>	<p>It is not clear as to how this is different from E2 and E4.</p> <p>Beyond correct - And to not be subject to profiling and discrimination</p>	

<p>freedom of expression? Indicator: • Legal frameworks and jurisprudence concerning privacy and freedom of expression</p>	<p>based on their data. FoE and RTI Privacy, data protection and FoE</p>	
<p>E.7 Are government requirements for Internet businesses to provide information to government agencies concerning Internet users necessary, proportionate, transparent and consistent with international rights agreements? Indicator: • Existence and nature of legal framework and evidence that it is respected by government</p>	<p>Omit existence and nature Can these requests be challenged? Do persons impacted by these disclosures have redressal? Instead of Internet businesses - Private actors. This should apply to any entity that holds user data, not just businesses. Add lawful and pursuant to a legitimate aim.</p>	<p>Legislation and regulation, license agreements</p>

<p align="center">THEME F – SOCIAL, ECONOMIC AND CULTURAL RIGHTS</p> <p>In the explanatory text it would be great if we could explain the link between ESCRs and the Internet</p> <p>It feels a bit odd that CPR gets 5 themes and all of ESCR gets one.</p> <p>Are there any <i>additional themes, questions or indicators</i> which you believe should be included in the framework?</p> <ul style="list-style-type: none"> • Does the state use digital mediums to promote and further ESCRs? • Create separate indicators for labour, health, education • Copyright as a barrier to access to scientific knowledge and taking part in cultural life should be considered • Access to scientific knowledge should be considered. • Access to information on health online should be considered, especially information on sexual and reproductive health, since that information is censored in some contexts. 		
	<p>Are there any suggestions that you wish to make in respect of the <i>proposed themes, questions and indicators</i> which are included in the framework as it stands?</p>	<p>What <i>sources and means of verification</i> would you recommend, from your experience, in relation to any of the questions and indicators that have been proposed?</p>
<p>F.1 Do government policies incorporate the Internet in strategies concerned with employment, health and education, with particular reference to ICESCR</p>	<p><i>I don't really understand this indicator. Firstly there is an assumption that the internet has a positive impact on these rights. The internet can disrupt whole sectors, putting people in precarious work situations, for</i></p>	<p>Legislation and regulation</p>

<p>rights?</p> <p>Indicators:</p> <p>Evidence of analysis by government of the impact of Internet on employment, health and education</p>	<p>example.</p> <p>I think the indicator needs to look at whether the internet policy and regulation enables the exercise of ESCRs</p> <p>Do policies governing ESCRs incorporate digital spaces in their policies?</p> <p>Change ICESCR to ESCR rights or rights enshrined in ICESCR</p> <p>Suggest keeping this indicator just broad and introducing specific indicators for the themes</p>	
<p>F.2 Are all citizens equally able to take advantage of the Internet to participate in cultural activity?</p> <p>Indicators:</p> <p>Extent and nature of differences in Internet access and use between different communities/ ethnicities</p> <ul style="list-style-type: none"> • Existence or otherwise of government policy concerning cultural heritage online • Constitutional or legal guarantee of freedom of artistic expression 	<p>Change citizen to individuals</p> <p>Change to take part in/participate in cultural life.</p> <p>Ethnicity is not necessarily an issue in all jurisdictions, suggest changing it to groups, communities or sections</p> <p>Remove otherwise</p> <p>Whether there are policies and initiatives concerning cultural heritage online.</p> <p>Is this about digitization cultural heritage? Need to add something on copyright and whether IP serves as a barrier to taking part in cultural life.</p> <p>Artistic expression online – Wouldn't this be contained in freedom of expression? Do many countries have a separate provision for artistic expression? And is that really necessary to protect FoE?</p> <p>Add instances where artistic expression online have been violated</p>	<p>Legislation, regulation, CSO reports, media reports, criminal bureau records</p>