



SMART CITIES: GLOBAL IMPLICATIONS

*“Whether it is Rome, Manila or New Delhi, smart projects are being proposed by private businesses that need grant funding from the city or national government with no guarantee these projects will work or benefit local people. This approach is not sustainable.”—Paul Moorby, *Smart Cities: Overpromised and undelivered*, SMARTCITIESWORLD (Feb. 26, 2020).*

Multi-national Corporations

Lack of Legal Accountability

Over the past several decades, the privatization of government functions has been a global phenomenon—goods and services that used to be exclusively provided by the government are now contracted out. We can see this in the outsourcing of certain military and defense functions, foreign aid and development, transportation, and security. But on the whole, corporations have escaped accountability in international law. International treaties refer to Nation States, not international corporations.

Two forms of agreements that impact corporations are bilateral and multilateral investment treaties. These treaties are made by governments on behalf of the corporations who are incorporated in their nation states. Essentially, they set out terms governing the relationship between corporate investors from one country (that is party to the treaty) who are investing in the other country party to the treaty. Over time, these agreements have encouraged corporations to invest in countries where they otherwise might have considered the risks too high, but one of the drawbacks that has emerged is that many of these agreements, also limit the ability of the host government to regulate these companies. The protections for the companies can also create barriers to holding the companies accountable to domestic laws or, alternatively, international human rights standards.

The primary enforcement mechanism of these agreements are international arbitral tribunals. These tribunals adjudicate disputes between governments and foreign corporations, and, again, grew out of unfair advantages to states in their own domestic courts. A tribunal can be more of a neutral arbitrator between the corporation and the state. Yet, in recent years, many of the arbitral decisions have favored corporations, reading many of the bilateral and multilateral investment treaties as giving a fair amount of license to companies.

While there is no binding legislation, the UN has adopted the UN Guiding Principles on Business and Human Rights. This document gives businesses a standard to which they should aspire.

Helpful resources

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Off. UN High Comm’r Human Rights, *Guiding Principles on Business and Human Rights*, HR/PUB/11/04 (2011), https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

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Human Rights

What are they?

Human rights, in legal terms, are those that have been adopted in the Universal Declaration of Human Rights, then further explained and delineated in the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. The Universal Declaration of Human Rights (UDHR) was adopted in 1948. According to the UN, “[i]t represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, and that every one of us is born free and equal in dignity and rights.” (**The Foundation of International Human Rights Law**).

How does international law protect human rights?

These international laws create obligations which signatory States must respect. Again, from the UN: “By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.”

Helpful resources

G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948), https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf.

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The Right to the City, GLOB. PLATFORM FOR THE RIGHT TO THE CITY (last visited Aug. 13, 2020), <https://www.right2city.org/the-right-to-the-city/>.

Filippo Rasso et al., *Artificial Intelligence & Human Rights: Opportunities and Risks*, BERKMAN KLEIN CTR. INTERNET & SOC’Y HARV. U. (2018), https://cyber.harvard.edu/sites/default/files/2018-09/2018-09_AIHumanRightsSmall.pdf.

Case Studies

Helpful resources – South Africa

Sam Beckbessinger, *Here’s why you should oppose AI security surveillance cameras in your neighbourhood*, MEDIUM (Aug. 15, 2019), <https://medium.com/@greenhamsam/heres-why-you-should-oppose-ai-security-surveillance-cameras-in-your-neighbourhood-a22ff061ec04>.

Michael Kwet, *Smart CCTV Networks are Driving an AI-Powered Apartheid in South Africa*, VICE (Nov. 22, 2019, 9:35 A.M.), https://www.vice.com/en_us/article/pa7nek/smart-cctv-networks-are-driving-an-ai-powered-apartheid-in-south-africa.

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Helpful resources – Hong Kong

Gary Chung, *Explainer: What is the Sino-British Joint Declaration and what does it have to do with Hong Kong's extradition crisis?*, SOUTH CHINA MORNING POST (Jul. 4, 2019, 9:34 P.M.), <https://www.scmp.com/news/hong-kong/politics/article/3017318/explainer-what-sino-british-joint-declaration-and-what-does>.

Caitlin Hu, *What Hong Kong's masked protesters fear*, CNN (Sept. 12, 2019, 4:25 A.M.), <https://www.cnn.com/2019/09/09/asia/smart-lamp-hong-kong-hnk-intl/index.html>.

Audrey Wilson, *Hong Kong Rallies in Solidarity with Uighurs*, FOREIGN POL'Y (Dec. 23, 2019, 6:00 A.M.), <https://foreignpolicy.com/2019/12/23/hong-kong-protest-rally-solidarity-uighur-muslims-china-xinjiang/>.

Hong Kong's national security law: 10 things you need to know, AMNESTY INT'L (Jul. 17, 2020, 7:09 P.M.), <https://www.amnesty.org/en/latest/news/2020/07/hong-kong-national-security-law-10-things-you-need-to-know/>.

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The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (adopted at the Third Session of the Seventh National People's Congress on Apr. 4, 1990 promulgated by Order No. 26 of the President of the People's Republic of China on Apr. 4, 1990. Effective as of Jul. 1, 1997), <https://www.basiclaw.gov.hk/en/basiclawtext/index.html>.

Helpful resources – Toronto

Aria Bendix, *Sidewalk Labs shared its \$900 million plan to remake Toronto's waterfront. Local activists said it deepened their concerns*, BUS. INSIDER (Jun. 30, 2019, 10:30 A.M.), <https://www.businessinsider.com/sidewalk-labs-master-plan-criticism-2019-6>.

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