

## **Cyber Challenges to International Human Rights**

**Title:** The role of non-state actors and corporations in shaping online enforcement

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**Keywords:** Corporate Social Responsibility, Corporations, Cybersecurity, Human Rights, Online Enforcement

**Abstract:**

*General Description:*

The legal responsibility of online intermediaries for cybersecurity is at best opaque although the passivity doctrine is gradually being discarded. The intermediaries do not have 'blanket immunity' from responsibility but they are also not expected to monitor and regulate their large volume of content (Keats Citron, 2009:117-121, 125). Nonetheless, online intermediaries have been establishing voluntary systems and programmes for monitoring and dealing with cybersecurity matters despite the impreciseness of the legal regime. This seems a tacit acknowledgement of their gatekeeper role and corporate social responsibility (CSR). Originally conceived as voluntary, the potential use of CSR for regulation and co-regulation has slowly been gaining recognition.

This paper, however, argues that informal relational solidarity signals can impede the effectiveness of formal and CSR-generated rules in the online environment. These signals constitute informal 'institutions' that provide regulatory challenges such as secrecy, loyalty, information asymmetry, and evidence discovery. Nevertheless, the paper argues that CSR can exploit the relational and solidarity for effective co-regulation through collective responsabilisation and whistleblowing obligations for users of online media. This balanced approach respects users' freedoms of expression and association and provides them with individual responsibility and empowerment.

*Methodology:*

This conceptual paper utilises theoretical and analytical approaches. It draws insights from gatekeeper liability (Kraakman, 1986), actor network theory (Latour, 2005), motivational postures (Braithwaite, 2009), institutional (Hoffman, 1999), new institutional economics (Ohnesorge, 2007), stakeholder (Fassin, 2009), regulation and inventive interventionist (Osuji, 2015) theoretic models and from factual cases.