"The Future of Human Rights and Digital Technologies"

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Additional background document

Human Rights and Digital Technologies: a current and future global challenge

We are in the midst of a technological revolution – and many believe that advancements will only accelerate in the years to come. We are witnessing dramatic changes in our political, economic, social and cultural landscape, driven by ever-increasing capabilities of digital technologies. Progress is astounding, and digital tools have contributed to impressive improvements for the enjoyment of human rights. Artificial intelligence and other data-driven approaches greatly benefit science, helping us better understand environmental crises and develop life-saving medical treatments. Access to information is vastly enhanced thanks to the internet and people connect with like-minded peers across the globe. Achieving the Sustainable Development Goals will be impossible without embracing digitalization.

At the same time we are facing a plethora of challenges. And the speed at which technological advancements are happening provide further fuel to a sense of crisis. Indeed, the way technology is developed and deployed adds significant risks for the enjoyment of human rights.

It is essential that we channel the power of digital technology towards addressing the many challenges that societies are experiencing and will experience in coming decades. International and regional organizations, States and civil society are all urgently working to establish governance frameworks, laws and regulations to ensure that digital technologies are harnessed to serve humanity – and avoid the opposite. Recent months have seen a number of diverse initiatives that seek to reign in digital technology, in particular AI.

But where do these efforts land? Will they be crafted in ways that lead to rights-based regulation, and accelerate the realization of rights and SDGs? Or will they contribute to further shrinking of civic space, increase discrimination, and widen digital divides?

How can we ensure a future where technology is harnessed to serve the whole of humanity – and not just a few? How do we guarantee technology promotes equity and at a minimum, does not further exacerbate inequalities and vulnerabilities?

As we look toward the UN Summit of the Future in 2024 and the adoption of the Global Digital Compact, we hope to consider these and related questions and seek to identify recommendations on concrete steps to ensure a future where the governance of digital technologies is based on the human rights of everyone, everywhere.

This note presents a non-exhaustive overview of some of the main human rights challenges arising from the proliferation of digital technologies; and a summary of some of the current responses and related gaps.

2. The challenges: a non-exhaustive overview

Rapid digitization is affecting most, if not all aspects of modern life and societies – even those people who have no access to the internet or digital devices are being impacted by numerous digitized decision-making processes and effectively left out from essential parts of political, cultural, economic and social life. Digital technologies are relevant for how all human rights can be enjoyed – by everyone.

AI has particularly transformative potential. Governments and businesses are rushing to deeply integrate AI into their processes, products and services, hoping for (and often already experiencing) efficiency gains, new insights, and improved performance. The growing reliance on AI will uproot business models, affect the availability of jobs and fundamentally change the nature of some types of work. At the same time, discriminatory impacts of AI deployments are already well-documented, affecting some of those relying on social welfare, migrants, and workers. Predictive tools can expose people to discrimination and growing threats to their rights when seeking jobs or facing law enforcement and the justice system. The availability of huge amounts of personal data that can be fed into AI systems undermines privacy at unprecedented scale. AI can also turbocharge deceptive practices and disinformation, undermining democratic processes and giving those in power ever more capable tools to stifle dissent.

Digital identity systems and digital public infrastructure promise better and more inclusive access to government and other services and streamlined, almost frictionless transactions. And while impressive progress has been made to provide people with a digital legal identity (see SDG target 16.9), such systems can pose risks of discrimination and exclusion.

Surveillance capabilities have skyrocketed. Mass surveillance measures continue and expand, accessing private communications data in bulk, monitoring both online and "real life" public spaces, often without adequate or any legal frameworks or safeguards in place. Far too often, powerful spyware tools are being deployed against dissidents, journalists, and human rights defenders.

While the absolute need to close the digital divide is widely-recognized, self-imposed digital gaps proliferate, with a broad range of government-imposed shutdowns of digital communications channels in some countries, denying millions of people adequate access to information, threatening livelihoods, interfering with access to health services, undermining independent reporting, and undercutting humanitarian assistance.

In parallel, social media platforms are the scene of hugely complex and seemingly contradictory challenges. They enable people to connect, to reach out, to find each other, learn from one another, and build communities; they are a lifeline for many people facing discrimination and exclusion to find likeminded people and crucial information. But these platforms also allow incitement to hatred and violence to spread with unprecedented speed and reach, fuel toxic attacks and threats, including against minorities and women, and spread

disinformation. Often in response, we have seen a proliferation of overbroad regulations that remove or even criminalize speech protected by human rights law, and the use of social media or cybercrime laws to crackdown on human rights defenders, journalists, and opposition voices.

Digital technologies are also central to how armed conflicts unfold, with a host of urgent questions arising. Cyberoperations potentially threatening critical infrastructure as well as autonomous lethal weapons risk lowering thresholds for escalating conflicts, with potentially devastating consequences.

At the same time, people face enormous disparities in terms of their ability to enjoy digital progress. Digital divides are closing only slowly, and often unevenly across different sectors of society within the same country. Billions of people have no meaningful access to the internet at all. Women and girls are less likely to enjoy the benefits of being connected.

And both within countries and at the global level, tech development and governance favour those with existing resources and power, in particular corporate power. Digitalization, in addition to providing vast benefits, also places enormous power in few hands. Since digital technology can capitalize on immense data sets of information, this monopoly on data can become a powerful tool for control of policy, diplomacy, and market forces, affecting billions of users. This can lead to discrimination, especially against women and girls, marginalized communities, and trends of digital colonialism, further marginalizing and potentially exploiting many, such as indigenous peoples, minorities, people with disabilities.

Additionally, advances in areas such as quantum computing and neurotechnology raise a whole new spectrum of questions. They promise unimaginable scientific progress and possibilities to heal – but can also potentially threaten digital security, privacy and human dignity in unprecedented ways.

All this happens against the background of very large tech companies with substantial market and political powers providing the infrastructure for critical areas traditionally left to Governments, from social security to border management and national security. The dependence of large parts of our societies on tech companies raises important questions regarding democratic legitimacy, accountability, reliability and resilience.

3. What are some of the actions being taken to respond?

In recent years, Governments, regional and international organizations, including the UN, companies and civil society organizations and activists have worked on, proposed and adopted countless measures in response to the emerging digital landscape – often not in line with international human rights law, principles and standards.

This includes a plethora of hard and soft law, self-regulatory measures, ethical principles, guidelines, reports, recommendations, collaborative platforms and networks, global and

regional advocacy initiatives, campaigns, observatories, industry groups, and community initiatives.

Data protection laws are now in force in the majority of States, but with some significant exceptions. Dozens of Governments have adopted laws regulating social media and online expression at large, too many of which enable censorship and stifling of dissent. AI regulation efforts have gotten more traction, with some States having adopted or being close to enacting legal measures of varying scope.

A need for coordination across borders has emerged as key challenge that various organizations and forums seek to address. In the AI space alone, this includes multiple initiatives, including negotiation of a treaty at the Council of Europe, the agreement of the G7 to create a code of conduct to establish greater control over AI, UNESCO's Recommendation on the Ethics of AI, and the OECD Principles for Trustworthy AI. The UN Secretary-General has established a High-Level Advisory Body on AI that will make recommendations on the global governance of AI. The UN Summit of the Future, which will include a Global Digital Compact that will take into account these recommendations but seek to find broader agreement to guide how societies will respond to the challenges of the digital age.

4. Where are the gaps and what action is needed?

There are at least three elements that clearly stand out from the current context: the imperative to put human rights front and centre when developing, using and governing digital technology; the need for diverse voices – from the online, offline, and disconnected worlds – to have a seat at the decision-making table; and the importance of ensuring inclusive digital technology development for the public good.

Regardless of what governance structures, regulation or legislation may be established in the future, there is urgent need now, and will be in the future, for authoritative human rights guidance, advice, and sharing of best practices on legislation, regulation and company practice related to digital technology in general, including on AI for governments and companies. In parallel, there is and will be need for inclusive, participatory processes to contribute to their development. And ensuring that we invest in closing the digital divide and maximizing the benefits of digital technology for people not profit is essential.

These three interlinked key elements must be part of our future to ensure that humanity benefits from the digital revolution: a strong grounding in human rights and highly inclusive, participatory development and governance of technology.

We need these elements both to address the current human rights challenges related to digital tech today, as well as to be part of agile, long-term solutions that can provide human rights advice to address future and unforeseeable risks of digital technology.

In human rights, we have the only universally accepted framework of values. Human rights insist on the centrality of the dignity, freedom and equality, and provide protection and

empowerment to the marginalized, those in vulnerable situations, those exposed to the risk of discrimination or being abused. Human rights are the guiding compass to shape the development of societies, including addressing new and emerging developments such as new technologies. We must tap the full potential of the human rights legal and institutional framework to reap the benefits of a digital future.

This requires listening to everyone, it requires making innovative efforts to fully understand and involve all communities when it comes to shaping the technological and regulatory environment. We need to hear the voices of those most affected by digital technologies and those most often left out of decision-making processes, particularly from developing and middle-income countries. Those voices, included in policy discussions with Government and based on academic research, can help us to find evidence-based ways of addressing new challenges, and to better understand and rectify harms.

Decades of multi-stakeholder efforts in internet governance, with its successes, challenges and shortcomings, have shown the value of broad, inclusive and flexible arrangements – and also where failure points for inclusion are. In determining models for governing technology that are fit for the future, we can build on these experiences – and we need to find new ways to enhance participation, to improve the ways that under-resourced communities and States take their digital future into their own hands, while maintaining and expanding the global nature of the internet. Many inspiring examples exist, from the community networks in underserved regions to AI projects for indigenous communities run by those communities.

Human rights-centred development and use of digital technology can build on a trove of analysis, findings and recommendations already developed by national, regional and international bodies, organizations and experts. Within the UN system alone, hundreds of reports, concluding observations, resolutions, guidelines, and principles exist and are steadily expanded, providing a solid basis for future action. However, making this vast body of knowledge, experience and insights actionable remains a challenge. It requires breaking policy silos and overcoming capacity gaps of many stakeholders, who often lack understanding of human rights issues. To ensure that knowledge about human rights can be widely shared and assistance is well targeted, new platforms and mechanisms should be explored.

While it is necessary to act on all levels, beginning at the local, one proposal to be explored is a mechanism with international reach: a digital *Human Rights Advisory Mechanism* (HRAM), facilitated by the Office of the United Nations High Commissioner for Human Rights as proposed by the Secretary-General in his *Policy Brief on a Global Digital Compact*.[1] The HRAM would be well-placed to support stakeholders across the world when designing much-needed policies – and could be carefully designed to ensure the inclusiveness of developing and giving advice that is so urgently needed. It could provide practical guidance on human rights and technology issues, building on the work of the human rights mechanisms and experts, showcase good practices and convene stakeholders to explore effective and coherent responses to legislative or regulatory issues, including developing standard templates and

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[1] *'Our Common Agenda Policy Brief 5: A Global Digital Compact – an Open, Free and Secure Digital Future for All',* United Nations, page 14.

processes for regulation that could be adapted to national and local contexts. This mechanism could be designed in a manner to systematically include voices from diverse experiences and backgrounds from around the globe, and become an unprecedented platform for shaping innovative rights-based responses to the challenges we face.

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Annex I: Excerpts from the Secretary-General's Policy Brief on the Global Digital Compact:

'*C. UPHOLDING HUMAN RIGHTS I propose the following objectives:*

> *• Make human rights the foundation of an open, safe and secure digital future, with human dignity at its core*
> *• End the gender digital divide by ensuring that online spaces are non-discriminatory and safe for women and by expanding women's participation in the technology sector and digital policymaking*
> *• Apply international labour rights regardless of the mode of work and protect workers against digital surveillance, arbitrary algorithmic decisions and loss of agency over their labour*

Accordingly, I propose the following actions: Member States should:

> *• **Commit to establishing a digital human rights advisory mechanism, facilitated by the Office of the United Nations High Commissioner for Human Rights**, that would provide practical guidance on human rights and technology issues, building on the work of the human rights mechanisms and experts, showcase good practices and convene stakeholders to explore effective and coherent responses to legislative or regulatory issues All stakeholders should:*
> *• Commit to reflecting existing legal commitments in regional, national and industry policies and standards and take specific measures to protect and empower women, children, young people, older persons, persons with disabilities, Indigenous Peoples and ethnic, religious and linguistic minorities to fully benefit from digital technologies*
> *• In the case of Governments, employers and workers, commit to upholding labour rights, supported by the International Labour Organization, and promote meaningful and equitable employment opportunities through innovative regulation, social protection and investment policies.*'

Also from the Secretary-General's Policy Brief:

'*The present brief proposes the development of a Global Digital Compact that would set out principles, objectives and actions for advancing an open, free, secure and human-centred digital future, one that is anchored in universal human rights and that enables the attainment of the Sustainable Development Goals. It outlines areas in which the need for multi-stakeholder digital cooperation is urgent and sets out how a Global Digital Compact can help to realize the commitment in the declaration on the commemoration of the seventy-fifth anniversary of the United Nations (General Assembly resolution 75/1) to "shaping a shared vision on digital cooperation" by providing an inclusive global framework. Such a framework is essential for the multi-stakeholder action required to overcome digital, data and innovation divides and to achieve the governance required for a sustainable digital future.*'