



Foreign, Commonwealth
& Development Office



Wilton Park



Report

Human Rights and New and Emerging Technology

Wednesday 29 November – Friday 1 December 2023

WP3298



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Introduction

1. The development and deployment of new and emerging technologies (henceforth referred to as “emerging technologies”), including artificial intelligence (AI), biometrics and neuro-technologies, have profound implications for the enjoyment of human rights. The pace of innovation poses unique challenges to understanding both the potential positive and adverse impacts on human rights associated with their use, and to designing the most effective human rights responses.
2. From 29th November to 1st December Wilton Park held a Human Rights and New and Emerging Technology dialogue, bringing together representatives from governments, industry, civil society, international organisations and academia. The discussions were designed to enable key human rights risks and opportunities to be identified, and assess concrete steps to address them in the design, development and use of technologies. This included discussion of the levers available at international, regional and domestic level, and the role of the tech community. The case study of technology-facilitated gender-based violence (TFGBV) was also considered. This report summarises key themes and recommendations emerging from the discussions.

Theme 1: Mapping the opportunities and risks of new and emerging technology

New and emerging technologies present opportunities to promote and protect human rights, as well as posing complex human rights risks. These risks can be specific to certain technologies, or to particular societal groups. It is therefore important to consider both the general human rights risks associated with new technologies, and the specific risks associated with certain technologies or groups. It is also necessary to prioritise the most urgent current risks, whilst taking action to mitigate longer-term risks.

3. **Emerging technologies promise** improved access to education and healthcare and democratised access to information. However, adverse impacts include harassment and abuse online, as well as the misuse of highly intrusive surveillance technology to chill civic space, and other violations of privacy rights.
4. Whilst lessons can be drawn across technology areas, a tailored risk assessment and response is required to effectively tackle specific manifestations of adverse impacts associated with specific technologies. For example, the privacy impacts of intrusive surveillance tools differ from the impacts of artificial intelligence systems, and require a differentiated policy approach, engaging different stakeholders. To drive more effective action, stakeholders need to move away from making general human rights recommendations to articulate precise assessments of the human rights problem and potential solutions.
5. The need to take into consideration the particular risk profiles of at-risk communities was

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also highlighted as essential to properly target policy responses. This requires engaging affected communities as part of consultations and engagement on the design, development and deployment of these technologies, as well as civil society organisations, developers and tech companies, academic experts, policymakers and regulators.

6. Discriminatory outcomes associated with the use of technology, and the high number of elections due to take place in 2024 were identified as immediate cross-cutting priorities. Deepfakes, mis- and disinformation, and restrictions on internet access may undermine civil and political rights, and participation in public life. These immediate threats are at risk of being overlooked by an excessive focus on catastrophic future risks.

Recommendations

- **Stakeholders should** map - and prioritise - specific human rights risks in the context of new and emerging technologies, and work together to better target collective efforts. Such a mapping should clearly identify the actors responsible for addressing them.
- **Stakeholders should** take forward targeted work to respond to the adverse human rights impacts which may impact on elections, including those associated with mis- and disinformation.

Governments should balance efforts to tackle current risks, with efforts to understand and mitigate future risks.

“Reopening consensus frameworks risks backsliding on existing commitments.”

Case Study: Technology- facilitated gender-based violence (TFGBV) provides a valuable case study of the multi-layered approach required to tackling tech related human rights risks. A number of effective policy interventions in this space are not strictly human rights related but have had a positive impact on the enjoyment of freedom of expression and human rights for those belonging to marginalised groups.

TFGBV refers to any act using information and communications technologies and other digital tools resulting in harms or interference in the enjoyment of rights and freedoms, on the basis of gender. Women and girls, the LGBTQ+ community and other marginalised groups are most affected. The impact of TFGBV can range from exclusion from civic and political spaces, career setbacks, disengagement from work and school, and harm to mental and physical health. This makes TFGBV a key barrier to digital inclusion that must be tackled to fully address the gender digital divide. Safety by design approaches were recognised as crucial tools to mitigate the risks of TFGBV. Increased investment in content moderation, including in minority languages, and support for survivor/victims of this abuse, are also important.

Theme 2: Strengthen implementation of existing human rights, rather than redefine the frameworks

“It is important to be creative in the levers used to tackle human rights problems.”

The existing human rights framework, structures and mechanisms, in particular the Universal Declaration on Human Rights, now in its 75th year, should be promoted as the source of human rights obligations and responsibilities in the context of new technologies. Reopening consensus frameworks risks backsliding on existing commitments. New human rights are not required to effectively protect human rights in the technological age: existing human rights law can be interpreted in light of technological change.

7. The human rights framework provides an agreed upon and legally binding framework to guide the design, development and use of new and emerging tech. The human rights

system is a living system, and new challenges associated with emerging technologies can be read into or are covered by existing human rights law. For example, the UN Human Rights Council and General Assembly, UN Treaty Bodies, UN Special Procedures, and the Office of the High Commissioner for Human Rights have developed interpretive guidance on how existing international human rights apply in the context of new technologies such as AI. Activity in regional human rights bodies is also important to ensure that a regional perspective shapes human rights responses. For example, a 2021 resolution adopted by the African Commission on Human and Peoples Rights, called for the development and use of AI, robotics and other new and emerging technologies to be compatible with regional frameworks and laws.

“The human rights toolkit is more than the formal legal system.”

8. Creating new rights would take many years and may result in backsliding. It is therefore more effective to focus efforts on practical efforts to implement and promote adherence to existing norms, rather than reopen fragile consensus at a time of geopolitical divisions. The human rights system requires investment and strengthening to ensure it can support the implementation of human rights in this context, and provide technical assistance – creating new processes or bodies risks undermining them. Aspects of the human rights system are under attack and require proactive support – both financial and political. The 75th anniversary of the signing of the Universal Declaration of Human Rights provides a platform for promoting human rights as central to the debate on emerging technologies.
9. At the same time, it is important to be creative in the levers used to tackle human rights problems. The human rights system moves more slowly than the pace of technological change – for example, cases can take many years to reach international human rights bodies. But the human rights toolkit is more than the formal legal system. It includes flexible and agile tools such as human rights impact assessments, policy toolkits, human rights by design approaches, among others. Human rights goals can also be achieved through non-specialist human rights bodies and approaches, and avoiding the language of human rights may in some instances be more appealing and effective to engage certain state and non-state actors. Bodies such as the OECD, G7, and G20 have a role to play.
10. More attention to translating aspirational human rights goals into practical and actionable policy and technical action is also important. For example, human rights reports could benefit from accompanying practical toolkits targeted at companies. Further work is needed to consider which actors are best suited to develop technical advice and requirements for industry, and how to set expectations, and appropriate enforcement.
11. Ex-ante and ex-poste approaches to addressing adverse human rights impacts should be encouraged. Some risks to human rights are foreseeable and should be addressed prior to the deployment of a new technology. Regular ex-poste assessments of the deployment of technologies allows for monitoring and evaluation of safeguards in relation to specific use-cases, enabling best practices to develop and unforeseen impacts to be addressed.

Recommendations

- **Governments should** increase coordination to enable a joined-up approach to promoting tech and human rights issues within multilateral organisations, and make most effective use of available resources.
- **Governments should** consistently champion the existing international human rights framework, and push back on attempts to weaken or undermine key pillars of the UN human rights system such as the UN Treaty Bodies, Office of the High Commissioner for Human Rights, and UN Special Procedures.
- **Governments and the private sector** should consider making funding, resources, and research facilities available to bolster the implementation of the UN Human

Rights pillar, strengthening the capacity of key actors to have impact on issues relating to the intersection of tech and human rights.

- This could include support for the establishment of a specialist human rights advisory mechanism, facilitated by the Office of the United Nations High Commissioner for Human Rights (OHCHR), as proposed by the UN Secretary General.
- **Human rights bodies, and civil society organisations, and policy makers** should work with the private sector and technical community to ensure policy recommendations are practically implementable and accessible, to enable more effective implementation.
- **All stakeholders should** consider available levers at domestic, regional, and international level to address human rights challenges in the context of new technologies, making effective use of both traditional human rights tools and more agile, creative approaches. Ex-poste and ex-ante approaches should be considered.

Theme 3: A multistakeholder approach

Preserving and strengthening a multi-stakeholder approach to international tech governance, including in relation to human rights bodies, is essential.

12. **Tech governance issues, including in relation to human rights, are of growing interest globally, and are under active discussion in a number of multilateral and multistakeholder bodies.** This includes initiatives in the UN Human Rights Council, the UN General Assembly, UNESCO and the UN Internet Governance Forum. The Council of Europe is considering the first international convention on AI, and the OECD is driving numerous emerging tech workstreams including through its Global Forum on Technology. The UK hosted AI Safety Summit raised awareness of the urgent need to steer AI development to in a direction that best promotes human rights, democracy and the rule of law.
13. **Multistakeholder approaches are fundamental to effective technology governance discussions and policy-making and should be protected and promoted.** Whilst some international processes operate on the basis of intergovernmental negotiation, creative models to enable multistakeholder engagement are vital to inform a more inclusive debate, reflecting the expertise of civil society, academia, and other stakeholders. It is a priority to improve engagement of stakeholders from under-represented regions in the global south, smaller civil society organisations, human rights defenders, and marginalised groups most impacted by technological change. This will ensure a deeper understanding of how technologies can impact human rights, and how these are experienced by different groups.
14. Models of effective multistakeholder should be followed consistently. The multistakeholder approach taken by following initiatives provide a good example: the Global Network Initiative, the Global Partnership for Action on TFGBV, OHCHR's B-Tech project, the Freedom Online Coalition, work at the African Union to establish a high-level expert panel to advise member states on harnessing innovation for socio-economic development, the Internet Governance Forum and industry associations. Truly effective multistakeholder engagement requires organisers to embed good practices, for example in organising events in diverse locations, raising awareness to expand participation. Engagement can be expensive for less well-resourced actors – targeting funding to enable participation from less-represented groups can be important to mitigate risks of exclusion, as well as clear communication on the different ways in which stakeholders can participate. Larger civil society organisations with presence or regular engagement in

“Multi-stakeholder approaches are fundamental to effective technology governance discussions.”

“Truly effective multi-stakeholder engagement requires organisers to embed good practices.”

multilateral organisations can play a role in facilitating engagement by local groups.

15. **Non-government stakeholders need more clarity on how to engage in the development of the Global Digital Compact (GDC).** Governments should call for an inclusive and transparent process engaging all stakeholders to maximise effectiveness of the outcome. There are risks that the GDC duplicates or undermines existing initiatives and organisations, which need to be pushed back on.
16. **To enable more effective coordination, more transparency from governments on their priorities would be beneficial. For example, the technologies they are prioritising engaging on from a human rights perspective, and relevant short- and long-term objectives.** Given the pace of change and breadth of technologies, resources and capacity will need to be prioritised, and burden-sharing between governments and stakeholders could be explored.

“The public need to better understand the impact of new and emerging technologies to provide informed consent for their deployment and build trust.”

Recommendations

- **Governments should** advocate for open, transparent, inclusive processes and the engagement of the multistakeholder community wherever possible. They should actively engage their own stakeholder communities, particularly where the modalities of engagement exclude non-governmental stakeholders.
- **Governments should** explore creative means to enable more diverse participation in intergovernmental and multilateral processes – for example by forming multistakeholder country delegations, supporting targeted travel assistance, among others.
- **Multilateral organisations should** adopt consistent, clear, inclusive processes to enable multistakeholder engagement, to promote the inclusion of diverse stakeholders, including CSOs (local and international), marginalised groups most affected by technological change, and diverse actors from the global south.

Civil society organisations should expand their networks, building coalitions between organisations to pool resources and use one voice for a clearer message and single point of contact.

Theme 4: Explainability, transparency and accountability

The public need to better understand the impact of new and emerging technologies to provide informed consent for their deployment and build trust. Better education on the nature of human rights impacts associated with technologies creates a more informed citizenry, able to advocate for their own rights, including access to remedy. There are significant challenges in identifying accountability for adverse human rights impacts in the context of new technologies. Access to remedy is a key challenge, requiring further action.

17. **Effective rights protection begins with individuals knowing how their rights are being impacted.** It is therefore essential to improve public understanding of how the design, development and use of technology can impact the enjoyment of their human rights. Improving the explainability of tech underpins meaningful and informed user consent, and addressing power imbalances between users and tech developers and tech companies. Efforts to promote awareness of user rights’ and access to remedy are an essential component of promoting human rights in the context of new technologies.
18. Greater transparency by companies on the design, development, intended use and impact of their technologies is needed to allow independent actors such as governments or CSOs to assess company practices, and identify risks to the enjoyment of human rights. Without transparency, advocacy to promote more accountable practices will be hampered. Proper oversight is also needed to ensure the safety systems and mitigation

“Without transparency, advocacy to promote more accountable practices will be hampered.”

measures implemented by tech companies are effective.

19. **There is a need for more effective accountability mechanisms to prevent and address harms to human rights. Mechanisms may include domestic, regional, or international approaches.** It is important that laws, policy frameworks and regulation have teeth and are enforced consistently. Access to remedy is an important aspect of accountability and must be meaningfully accessible by all users. Where remedy mechanisms do exist, for example through existing regulators, they need to be resourced properly to meet the challenge posed by new and emerging technologies.
20. The complexity of the tech landscape means that a range of processes and actors are involved in the design, development and use of technologies. This makes it difficult to assign liability effectively to drive change. There are existing examples that can provide inspiration. For example, regulators could look to liability identification systems used in the context of legal autonomous weapons systems and in relation to the EU Directive, to assess their applicability and potential use in relation to new and emerging technologies more widely. The GDPR process may provide an example of how to promote effective accountability and access to remedy for individuals, in a complex value chain.

Recommendations

“It is important that laws, policy frameworks and regulation have teeth and are enforced consistently.”

- **Governments and regulators should** put in place or implement effective oversight systems and require increased transparency from companies and promote more effective processes to address human rights risks by industry and developers.
- **Governments should** explore implementing and expanding complaints mechanisms and access to redress, improving access to remedy. This could include enabling regulators to act as ombudsmen.
- **All stakeholders** should invest in raising awareness and understanding of how human rights can be adversely impacted in the context of new technologies, to build public awareness and create a culture of informed consent.
- **Companies should** put in place and effectively resource accessible complaints mechanisms, that meet the needs of diverse users in regards to language, cultural context, and respond rapidly to urgent concerns.
- **Companies should** commit to greater transparency measures, including to explore opportunities to promote peer-to-peer learning about what mitigation measures show measurable impact.
- **Civil society organisations should** continue to work with grassroots partners to document and highlight cases where harms occur, and share findings with governments, regulators, and industry, to support accountability processes.

Theme 5: Bridging the gap between human rights and technologists to inject human rights throughout the technology lifecycle

Human rights communities and technology communities often operate in silos. These silos need to be overcome with interdisciplinary dialogue and engagement, to ensure these communities are able to speak a common language and cooperate. This will promote the integration of human rights considerations throughout the technology lifecycle.

21. **While human rights frameworks are characterised by structure and stability, technological development is associated with rapid innovation and disruption.** The two communities need to adopt more creative approaches to strengthen communication and engagement to bridge the gap. For example, a multi-month human rights impact assessment does not match the pace of the development cycle undertaken by

developers, and can result in recommendations that are not translated into tangible actionable tech development choices. The same risk also exists in the standards development space, with a lack of human rights expertise and engagement of underrepresented groups within Standards Development Organisations, processes and mechanisms. Piloting alternative approaches such as red-teaming and legislative sandboxing, to test the use of technologies and their impacts, could be effective.

22. Further work is also needed to unpack how a rights-based approach – preferred by human rights actors - and a risk-based approach – preferred by technologists – overlap.
23. Some initiatives are taking steps to bridge the gap, and can be built upon. For example, the Human Rights, Democracy and Rule of Law Impact Assessment (HUDERIA) tool, developed by the Council of Europe’s Ad Hoc Committee on AI, looks to infuse human rights and fundamental freedoms into accessible criteria for AI impact assessments and evaluation. The work undertaken by OHCHR’s B-Tech project is another notable example in this regard.
24. Investors and company boards also have a role to play in effective oversight and promoting the importance of human rights within the tech community. Investors and board members that understand the human rights implications of new technologies will be more effective in scrutinising companies’ approach to managing these risks and driving change from the top.

Recommendations

- **Governments should** take steps to increase internal capacity and understanding to ensure their human rights policy experts have sufficient technology knowledge, and technology policy experts have sufficient human rights knowledge, and collaborate effectively at the national and international level.
- **Funders should** increase funding available to CSOs working on the intersection of human rights and technology to increase capacity and expertise available, and undertake innovative engagement with industry, affected user groups, and traditional human rights experts, to promote practical action that improves tech companies systems and processes in the field of human rights.
- **Human rights actors should** increase their understanding of the tech development cycle, to ensure their human rights recommendations are better informed by technical realities, and actionable.
- **Human rights and technology experts** working at the intersection of tech and human rights should spearhead work to consider how human rights principles, terminology and toolkits can be infused into technologists’ often-complex development processes.
- **Companies and tech developers** should take opportunities to work more effectively with human rights actors, for example trialling red-teaming, to improve their development processes.
- **All stakeholders should** take steps to promote diverse participation in Standards Development Organisations, with a particular focus on increasing participation by actors with human rights expertise, and less-represented groups.

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