The impact of technical standards on human rights in the case of digital technologies

Ministry of Foreign Affairs of the Netherlands/ Freedom Online Coalition

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Key Issues discussed

Areas of ICT standards that create impact on human rights:

1. Universal and meaningful connectivity. Technical standards can dictate avenues for expanding internet access to regions that are currently not served or underserved. Standards and decisions on spectrum allocation should be designed to enable the proliferation of small and community networks.

2. *C*ensorship and surveillance on the internet. In terms of security and privacy, the internet has changed in the last few years itself. Earlier, internet service providers and any intermediary network device or service could easily say what website a user was trying to access. Work at the Internet Engineering Task Force (IETF) has tried to encrypt portions of the Domain Name System, and strengthened the Secure Hypertext Transfer Protocol (HTTPS) to prevent that. Engagement with human rights considerations work focuses on trying to reduce the scope and extent of personal information that is available to private actors and consequently governments – shrinking the possibility of censorship and surveillance.

3. Data-intensive technologies, especially those using artificial intelligence, machine learning and biometric technologies. Here, standards govern the life cycle of AI systems, including but not limited to how models will be trained, and the transparency required of such systems.

4. Diversity: Many of these aforementioned issues only affect groups who are under-represented in standards bodies. It is of importance that the process of standard development is inclusive and open to meaningful participation of all stakeholders, including those representing marginalized communities or persons in vulnerable situations.

Towards WSIS+20 and WSIS beyond 2025, please share your views on the emerging trends, challenges, achievements, and opportunities in the implementation of the WSIS Action Lines to date

- 6) Enabling environment & 11) International and regional cooperation
  - o Technical standards regulating digital technologies can generate human rights impacts in several ways, which have yet to be fully examined and understood. Specific design decisions within technical standards-setting processes may facilitate the exercise or enjoyment of human rights, while fostering development and innovation in the digital landscape.
  - o However, certain standards may also have a negative impact on human rights, depending on how they are designed and implemented. There is therefore a pressing need to consider how standards can be used to address issues relating to new and emerging technologies such as AI systems, particularly with respect to embedded biases that lead to or facilitate discriminatory outcomes, or interfere with the rights to freedom of opinion, expression, privacy, and effective remedy.
  - o There are also unique challenges facing a variety of actors as they seek to engage in and shape standard-setting processes. While states, businesses and standard setting organisations play a primary role, there is a clear need for civil society and human

rights experts to provide their perspectives and ensure that technical expertise is complemented by human rights considerations. Without these nuanced perspectives, there is a potential danger that proposals for standardisation relating to artificial intelligence may lead to standards which systematically undermine the rights-enabling properties of these technologies.

- o Ongoing challenges remain for underrepresented stakeholders such as small businesses, global south States and civil society organisations who have some combination of struggles to: prioritise and sustain long term engagement, gain access to multilateral fora, acquire talent and develop necessary expertise. It's important to note most global fora discussions are conducted in English and move at a pace that is out of alignment with the need to build coalitions.
- o Successful models of linking human rights and technical standards include the Human Rights Protocol Considerations Group at the Internet Research Task Force.

Tangible outcomes (such as key achievements, announcements, launches, agreements, commitments, figures, and success stories)
- The FOC will be hosting strategic discussions and capacity building opportunities for stakeholders to explore how to advance human rights in technical standard-setting for digital technologies.
- The FOC also plans to issue a joint statement on human rights and technical standards for digital technologies.
    - o As part of the implementation of the statement, the FOC plans to host an IGF session which will aim to further the discussions and explore how governments, civil society, private sector, academia and technical community can work together to ensure human rights considerations are effectively integrated into technical standard setting processes.

Actionable plan and key recommendations
- The OHCHR's report on "Human rights and technical standard-setting processes for new and emerging digital technologies" provides a set of recommendations for the effective integration of human rights considerations into technical standard-setting processes.
- Governments should abstain from endorsing standards that could potentially infringe on human rights.Governments should maintain their human rights obligations when delegating regulatory functions to standard-setting bodies and to support civil society's capacity to contribute effectively and independently to standard-setting processes. This approach underscores the pivotal role of governments in ensuring that the development and implementation of technical standards are conducted with a steadfast commitment to upholding human rights.
- The importance of including all stakeholders in these discussions, in a multi-disciplinary way, especially human rights experts, should be recognised by governments and standard-setting organisations.
- Standard-setting organisations should be open, transparent, and inclusive, ensuring their operations align with human rights standards.
    - o Meaningful openness to participation includes public documentation of meetings, discussions, decisions, drafts and final documents. Other tactics to improve participation include: systems to welcome new participants; clear codes of conduct; proactive outreach to participants in underrepresented areas; mentorship programs; funding support for engagement and travel.
- Standard-setting organisations should fully commit to the application of international human rights law, standards and principles, using human rights methodologies, and to being accountable for implementing that commitment.

- Private sector organisations should, while engaging in standard-developing processes, respect human rights obligations as outlined in the UN Guiding Principles on Business and Human Rights, including with regard to the impact of the standards on the use of digital technologies.

Suggestions for thematic aspects that might be included in the WSIS Forum 2025 (WSIS+20 Forum High-Level Event)
- As per the WSIS Action Lines and the Roadmaps for implementing them, the 2025 WSIS Forum should include discussions with all stakeholders on the importance of integrating human rights considerations and adopting a human rights-based approach to the entire lifecycle of (emerging) digital technologies. This also applies to the technical standard development process and the impact of standards.