Glion Human Rights Dialogue 2020 (Glion VII)

Human rights in the digital age: making digital technology work for human rights

Background paper for break-out group III:
'Making digital technology work for civil and political rights, democracy and elections'

The rapid evolution and spread of new technologies have major implications for the enjoyment of human rights. Indeed, numerous contemporary human rights challenges are inextricably linked with the growing power of new technologies, from the spread of online hate speech to attacks on the integrity of democratic elections.

The Human Rights Council and the wider UN human rights system have regularly considered the human rights implications of new technologies. Over recent years, that interest has intensified.[1] In light of this growing interest, there is clearly an important role to play for the UN in general, and the human rights pillar in particular, in clarifying universal human rights norms as they pertain to new and digital technologies. At the same time, ensuring that these technologies respect and work to enhance the enjoyment of human rights around the world requires cooperation between all relevant stakeholders and in particular the building of partnerships between governments, civil society and the private sector, particularly technology companies.

Making digital technology work for civil and political rights, democracy and elections

The rapid evolution and spread of digital technology are already having a major impact on the enjoyment of civil and political rights around the world, and on the ways in which democracies function. Some of those impacts are undoubtedly positive. Digital technology, for example, allows citizens to participate in national processes as well as demand transparency and accountability from leaders and officials in a manner unimaginable only a decade ago. It also makes it easier for citizens to connect with candidates and their elected representatives, while social media and online campaigns have helped strengthen the civil and political participation of millions living in democratic societies, especially young people and marginalised groups.

However, as is the case with each of the subthemes under consideration at Glion VII, with opportunities come threats and challenges. For example, intrusion in private information and even electoral processes can unduly influence electoral outcomes; voting machines may facilitate voting, but intrusion detection systems and other security measures have to be put in place to safeguard their integrity; while social media makes it easier to connect electorates with elected politicians, yet the same medium can be used to easily spread disinformation and hate. Some of these threats/challenges have received considerable media and expert attention over recent years. Others, especially the negative impacts of (the misuse of) digital technology on peoples' right to choose their elected representatives in free and fair polls, and their right to receive accurate and honest information to help them make that choice, have – surprisingly – received far less attention. Until this situation is rectified, rather than easing the disconnect between electorates and politicians and ultimately building confidence in a functioning democracy, there is a real risk that digital technology will increasingly be used to foment doubt and mistrust in democratic institutions and processes.

In 2019, Pew Research Centre and Elon University's 'Imagining the Internet Centre' canvassed technology experts to gain their insights about the potential future effects of people's use of technology on democracy. In an important wake-up call for world governments and the UN, including the Human Rights Council, some 49%

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of respondents expressed the view that digital technology will mostly weaken core aspects of democracy and democratic representation in the next decade (against 33% who said the use of technology will mostly strengthen democracy and 18% who said there will be no significant change).

'Digital democracy'

The way we learn to use the Internet in the next few years (or fail to learn) will undoubtedly influence the way our children and grandchildren govern themselves. Yet only a tiny fraction of news stories about the impact of the digital technology on human rights focus on how such technology may change democracy. Even those that do tend to focus on how traditional political parties and politicians are using the Internet to canvass support and win elections, rather than the potential of technology to broaden equal participation in political affairs or amplify the voice of grassroots movements. And yet, the balance between these two poles – i.e. the degree to which digital technology is used to empower the citizenry or to entrench existing power structures – or, seen another way, the degree to which technology is used to widen or narrow the enjoyment of civil and political rights in a country - will determine whether our children and grandchildren live in a more, or less, democratic world.

Unfortunately, at present, and on the strength of the 'Imagining the Internet Centre' research findings (above), digital technology appears to be mainly being used to narrow and restrict the enjoyment of civil and political rights, and to perpetuate existing inequalities. While in principle digital technology is a great 'equaliser,' turning every desktop into a printing press or broadcasting station, in reality many recent polls around the world, including in long-established democracies, suggest that far from serving to empower citizens, strengthen the enjoyment of civil and political rights, and deepen democracy, for the moment it is the wealthiest and most politically well-connected parts of society who have most effectively seized upon the opportunities provided by digital technology to consolidate – not share – power and opportunity.

Elections

Although democracy is far more than elections (a well-functioning democracy requires the full enjoyment of all civil and political rights, as well as the equal enjoyment of economic, social and cultural rights), free and fair public polls are nonetheless of central importance. Yet the international community has paid remarkably little attention to the question of how to embrace the digital age and its benefits while maintaining – and strengthening – the integrity and legitimacy of elections.

This is surely a missed opportunity. At a time of increasing distrust between citizens and their governments, technology can play a critical role in creating a more transparent, inclusive electoral process. More and more countries around the world, including many emerging democracies, increasingly embrace technology to strengthen their electoral processes, affording them greater legitimacy. International IDEA's global data on the use of ICTs in elections provides an early snapshot of the current situation: very few countries (about 11%) conduct elections largely without technology, while using at least some technology is now a reality for most election commissions. Taking a closer look at this data, however, reveals big differences depending on the type of technology in question. While around 57% of surveyed countries use electronic tabulation systems for official results, only 15% use vote counting technologies in polling stations. And while 71% of election management bodies utilise ICTs for voter registration, only 21% also use technology for voter identification in polling stations.

What is clear, in any case, is that the use of technology in elections will only increase in the coming years and decades. Now is the time, therefore, for the international human rights community to engage to ensure that digital technology serves to strengthen the inclusivity and integrity of elections, and thus promotes and protects civil and political rights – rather than the opposite.

Big data and voter manipulation

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As noted above, digital technology holds the potential to strengthen and widen participation in democracy, by empowering citizens/voters and arming them when the information they need to make informed choices during elections. However, a number of different national polls over the past five years, in different parts of the world, have shown that technology can also be used to mislead and manipulate voters in ways, and to a degree, that would have been unimaginable only ten years ago. These cases have typically involved the theft of personal data, especially from social media platforms like Facebook, and to use of that data to 'micro-target' individual voters, again typically via social media, with messages tailored to play on their particular fears or prejudices (e.g. about an 'influx' of illegal migrants should an election go in a certain way). Such political campaigns often present false or misleading information, and sometimes serve to incite discrimination or hatred, yet because their providence tends to be obscure (i.e. not necessarily linked to official campaigns or candidates), relevant national authorities (e.g. elections commissions or data protection agencies) have been largely powerless to intervene.

Digital technology companies have, belatedly, begun to take this threat to democracy seriously. For example, Twitter has begun 'flagging' disinformation promoted by candidates (e.g. as 'potentially misleading'). For its part, Facebook has promised ahead of the 2020 US Presidential polls that 'this election is not going to be business as usual. We all have a responsibility to protect our democracy. That means helping people register and vote, clearing up confusion about how this election will work, and taking steps to reduce the chances of violence and unrest.'

However, many politicians and election experts have argued that this is not enough. Governments must also act to safeguard the integrity of elections in the digital age, defend democracy, and protect civil and political rights. For example, US Senator Mark Warner recently acknowledged that 'we cannot expect social media companies to take adequate precautions on their own.' Unfortunately, most national election laws, and the bodies that police them (e.g. elections commissions), were drafted/established before the advent of the 'digital age,' and are therefore oftentimes 'helpless' in the face of new forms of digital campaigning.[2]

Key questions to be considered during the break-out group session include, *inter alia*:

1. What are the principal opportunities (e.g. participation); challenges and threats posed by digital technology to democracy and elections in the digital age, and are current national election laws and infrastructure (e.g. elections commissions, data protection agencies) capable of responding to these challenges and threats?
2. Considering that universal human rights norms provide a useful framework to help guide States in ensuring that digital technology serves and supports democracy, rather than undermines it; what can the Human Rights Council and the wider UN human rights system do promote the application of that framework?
3. How to strengthen partnerships between States and digital technology companies, at national level and at the UN, in order to seize the opportunities and address the threats posed by technology to democracy?

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[2] Martin Moore, Professor at King's College London.

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