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 I:
'Making digital technology work for freedom of expression and access to information'

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 freedom of expression and access to information

One of the most profound benefits of the onset of the digital age, especially the growing reach and power of the Internet, has been to provide a global, open and (in principle) inclusive platform for the sharing of information, ideas and opinion. However, with these opportunities have come important challenges, including for the promotion and protection of human rights.

Many of these opportunities and challenges have been recognised by the Human Rights Council and its mechanisms. In a number of resolutions and debates on the subject, the Council has asserted that the same rights and standards, especially those relating to freedom of expression and opinion, and freedom of/access to information, that are relevant off-line are also relevant on-line.

In this context, the Council and its mechanisms have asserted the value of the international human rights framework as a guiding force for the expansion of and access to the Internet. For example, resolution 38/7 on the promotion, protection and enjoyment of human rights on the Internet called for the application of 'a human rights-based approach when providing and expanding access to the Internet, and of the Internet being open, accessible and nurtured by **multi-stakeholder participation**.'

In particular, Council resolutions have addressed a number of specific areas of human rights concern.

First, with respect to the **right to privacy**, States have expressed concern 'at the arbitrary or unlawful collection, retention, processing and use or disclosure of personal data on the Internet, which could violate or abuse human rights.'[2] They asserted that 'privacy online is important for the realization of the right to freedom of expression and to hold opinions without interference, and the right to freedom of peaceful assembly and association.'[3] With this in mind, States have been urged to 'adopt, implement and, where necessary, reform laws, regulations, policies and other measures concerning personal data and privacy protection online, in

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[1] https://www.universal-rights.org/blog/do-digital-technologies-hurt-or-support-human-rights/
[2] PP22, resolution 38/7.
[3] PP12, resolution 38/7.

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order to prevent, mitigate and remedy the arbitrary or unlawful collection, retention, processing, use or disclosure of personal data on the Internet that could violate human rights.'[4]

Another area of repeated concern for the Council has been the spread of so-called **'hate speech'**. For example, the body has stressed 'the importance of combating advocacy of hatred on the Internet, which constitutes incitement to discrimination or violence, including by promoting tolerance, education and dialogue.'[5]

A more recent issue of concern has been the growing problem of deliberate misinformation or **'fake news.'** In this regard, the Council has expressed concern 'about the spread of disinformation and propaganda on the Internet, which can be designed and implemented so as to mislead, to violate human rights and privacy and to incite violence, hatred, discrimination or hostility.'[6] While a comprehensive strategy to counteract 'fake news,' that would at the same time protect access to information and freedom of speech, must still be defined, the best antidote to misinformation may be more information – as well as education and awareness-raising – so that individual rights-holders can make informed choices and decisions. For example, States have been urged to 'encourage media training, educational campaigns and other efforts aimed at identifying and raising awareness about information online that may be deliberately misleading or false.'[7]

Safeguarding access to information

Whereas issues such as on-line security, privacy, hate speech and fake news, are of real and growing concern and must be addressed while safeguarding freedom of expression, the Council has also noted the risk that governments would deliberately use such concerns to undermine or actively supress human rights and fundamental freedoms. For example, it expressed concern at 'undue restrictions of freedom of opinion and expression online, including where States have manipulated or suppressed online expression' with the aim of 'intentionally preventing or disrupting access to or dissemination of information online.'[8]

The Council has also called on States, when addressing security concerns, such as terrorism, crime, and the spread of hateful ideologies, to do so 'in accordance with their international human rights obligations, in particular with regard to freedom of opinion and expression, freedom of association, and privacy.'[9]

States have been reminded of their obligations under international law to safeguard **access to information**, including via the Internet, a freedom that proffers 'vast opportunities in many spheres of life, including for affordable and inclusive education globally.'[10] On the latter point, the Council has regularly recalled the importance of the Internet 'as an important tool to facilitate promotion of the right to education' (including outside schools) and has called upon 'all States to promote digital literacy and to facilitate access to information on the Internet for all children.'[11]

Finally, the Council has also underscored the importance of equality (i.e. bridging the 'digital divide') and non-discrimination in promoting and protecting the universal rights to information and education. For example, it has stressed the importance of 'empowering all women and girls by enhancing their access to information and communications technology, by promoting digital literacy and the participation of women and girls in education and training on information and communications technology.' In recalling articles 9 and 21 of the Convention on the Rights of Persons with Disabilities, it also called upon States 'to take appropriate measures to promote access for persons with disabilities to new information and communications technology and systems, including the Internet.'

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[4] OP17, resolution 38/7.
[5] OP15, resolution 38/7.
[6] PP21, resolution 38/7.
[7] OP16, resolution 38/7.
[8] PP20, resolution 38/7.
[9] OP8, resolution 28/7.
[10] PP14, resolution 38/7.
[11] OP4, resolution 38/7.

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

1. How can States work with other relevant stakeholders (e.g. UN experts, social media companies) to ensure that important challenges posed by digital technology (e.g. 'hate speech' and disinformation) are addressed in a manner that respects the rights to freedom of expression and opinion, and to information?

2. With guidance from instruments such as the ICCPR, Human Rights Council resolution 16/18 on combatting religious intolerance, the Rabat Plan of Action, and the reports of the Special Rapporteur on freedom of expression, is it possible to define 'hate speech,' especially in different cultural contexts? Considering that most on-line hate speech is spread via social media platforms (i.e. private companies), how can States effectively address it, and in such a way as to protect freedom of expression?

3. How have the Internet and social media exacerbated the problem of disinformation (or 'fake news'), and are its consequences for society and democracy overblown or understated? How can States rise to the societal and democratic challenges posed by 'fake news,' and related developments such as 'deep fake videos,' in a way that respects and protects freedom of expression and opinion, and access to information?

4. What are the impacts of 'Internet shutdowns' on human rights? Is this practice a growing global threat to human rights, and what can the international community do to address it?

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