

**21 April 2020**

**Catherine Pollard**, Under Secretary General for Management Strategy, Policy and Compliance

**Ilze Brands Kehris**, United Nations Assistant Secretary-General for Human Rights

**Maria Luiza Riberio Viotti**, Chef de Cabinet, Executive Office of the Secretary-General (EOSG)

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United Nations Headquarters

New York, NY, 10017, USA

Dear Excellencies,

The undersigned organizations write today to emphasize the fundamental importance of ensuring transparency and adequately assessing the human rights impact of any private-public partnerships that the United Nations (U.N.) may enter into, especially during the COVID-19 pandemic. We acknowledge that the COVID-19 pandemic poses many unique challenges which must be addressed in order to effectively reach the global community and advance international cooperation during an unprecedented global health crisis.

We further acknowledge that private-public partnerships – particularly with information communication technology (ICT) companies that have the capacity to reach millions of users – could provide much-needed technical resources to increase the U.N.’s capacity and improve accessibility for all stakeholders to the U.N.’s discussions, meetings, and other processes. We consider that initiatives from the private sector that go beyond their duty to respect human rights, and to actively promote them, are positive.

At the same time, we believe there should be increased consultation with various stakeholders and scrutiny around both the process and content of any private-public partnership. This ranges from questions about whether potential conflicts of interest have been identified and mitigated, to whether a human rights impact assessment was conducted, and to the scope of the potential terms of an agreement and the privacy, data protection, and security measures in place to govern these services. We specifically caution against the use of proprietary technologies, especially those based on algorithmic and machine-learning techniques, unless significant safeguards are in place. These consultations should adopt a truly open and multi-stakeholder approach where all actors, including civil society, are on an equal footing.

In relation to analogous public-private partnerships at the national level, Special Procedures of the Human Rights Council have warned that “[c]are must be taken to ensure that negotiations for public-private partnerships are fully transparent and are not kept confidential.”<sup>1</sup> Each new private-public partnership the U.N. enters should provide a positive precedent for future cooperation between intergovernmental organizations and ICT companies.

We therefore encourage the U.N. to conduct meaningful and transparent due diligence and prioritize engaging with companies that demonstrate a public commitment to respecting human rights. Often, the “medium” impacts the “message,” especially in online discourse. Therefore, intentionally or not,

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<sup>1</sup> Special Rapporteur on the Right to education, report A/70/342 at para 110.

such partnerships may create the perception that the ICT company is in a unique position to influence conversations, or conversely, that the imprimatur of the U.N. extends to all aspects of the company's operation. As a result, this influence can impact the level of participation (opt-out) or the quality of response (self-censorship).

We express concerns regarding privacy, data protection, and security measures that govern digital platforms, particularly for those who communicate with the expectation that their data be held securely from third parties. Public-private partnerships in this area typically require exclusive contracts and allow the private company to analyze project data, including personal information, for various purposes. Such sensitive and contextual situations under U.N. auspices must be undertaken with the highest standards of care and human rights protection. Safeguards must be set in place to protect users already at risk of censorship and reprisals for exercising their freedom of expression.

Even before COVID-19, we have witnessed U.N. agencies and offices increasingly enter into public-private partnerships. Currently the U.N. has no dedicated office or Special Representative to govern and monitor such partnerships. This is evident in the diverse array of officials addressed in this very letter. A dedicated U.N. office or Special Representative may assist the transparency and human rights monitoring of private-public partnerships and therefore strengthen public trust. Such a mechanism is becoming increasingly important given the wake of the current COVID-19 pandemic and beyond.

**We therefore recommend:**

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- 1. Seek out companies who engage in routine, public transparency reporting on their human rights impacts and who exemplify a genuine commitment to respect human rights.**

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  - 2. Make a public commitment to transparency and undertake consultations with various stakeholders, including experts in academia and civil society.**

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  - 3. Conduct meaningful and transparent due diligence to ensure no conflicts of interest exist or will arise, and conduct human rights impact assessments on projects and partners, engaging independent experts where necessary.**

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  - 4. If or when entering into a contract with a private company, carefully review the requirements the U.N. is obliged to meet under the contract, including issues such as:**
    - a. What is the sustainability of the partnership or project?**
    - b. What are the contract's durations, sunset, and renewal terms?**
    - c. What terms and conditions apply to the conversations, documents, and other data planned to be hosted by the platform? What domestic or international laws or regulations govern these conditions? Do they align with human rights law?**
    - d. Will the private company have access to and the ability to process user data under this partnership?**

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**5. Ensure that contract language is aligned with the highest standards of rights protections, in particular in the areas of transparency, data protection, privacy and freedom of expression.**

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**6. Upon entering into a formal partnership, announce clearly the safeguards put into place to ensure that participants' rights to privacy and free expression will be respected, and that they can participate freely without threat of intimidation or reprisal.**

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**7. Commit to promptly addressing any case of intimidation or reprisal that is reported in connection to participation in U.N. processes on a digital platform directly with the government in question and in partnership with the senior official responsible for reprisals.**

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**8. Develop and implement a dedicated U.N. office or Special Representative to monitor public-private partnerships, ensuring transparency and respect for human rights.**

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We remain open to engaging with and advising the U.N. on the human rights implications and unintended risks of any public-private partnership the U.N. considers to undertake. We therefore remain committed to engage in further dialogue with you, your agencies, and affiliates as you navigate this difficult time.

Sincerely,

## **ORGANISATIONS**

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Access Now

Article 19

Association for Progressive Communications

Chinese Human Rights Defenders

CIVICUS

International Service for Human Rights

Ranking Digital Rights

Safeguard Defenders

cc

Michelle Bachelet, United Nations High Commissioner for Human Rights

David Kaye, UN Special Rapporteur on the Right to Freedom of Opinion and Expression

Clément Voule, UN Special Rapporteur on Rights to Freedom of Peaceful Assembly and Association

Joseph Cannataci, UN Special Rapporteur on the Right to Privacy

United Nations Working Group on Business and Human Rights

United Nations Global Compact

Office of the High Commissioner for Human Rights, B-Tech Project

UN Global Pulse