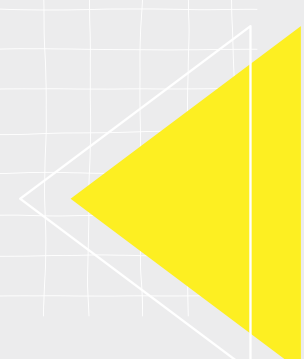




**ACCESS NOW AND THE EUROPEAN CENTER FOR NOT-FOR-PROFIT
LAW (ECNL) PRESENT:**

JOINT RECOMMENDATIONS & RESOURCES FOR THE UNITED NATIONS GLOBAL DIGITAL COMPACT



HUMAN RIGHTS DUE DILIGENCE

Companies and public authorities, including all UN bodies, should conduct human rights due diligence to identify, prevent, mitigate and address violations of rights, including by undertaking human rights impact assessments when designing, developing or placing into the market their digital products and services (including AI systems) as well as throughout their lifecycle. Human rights impact assessments of digital systems should always include meaningful consultation with civil society actors and other experts to complement technical knowledge.

UN bodies should facilitate and strengthen an ongoing multi-stakeholder dialogue (including existing forums like IGF), in particular between technology providers and civil society organisations, in order to foster trust, accountability and cooperation. The UN OHCHR, including the B-Tech Project and the OHCHR Civil Society Office, and the UN Tech Envoy office have a special role to play, including in relation to private-sector actors, particularly information communication technology (ICT) companies and AI development and their engagement with the UN via public-private partnerships. They are well-placed to ensure the transparency of private-public partnerships the UN enters into, as a model for other international, regional, and national bodies. The UN Tech Envoy should ensure a multistakeholder approach is implemented throughout the UN digital work and that civil society stakeholders are invited to shape the modalities of the negotiation and drafting process.

GENDER EQUALITY

Women and people of diverse genders and sexualities continue to face recurrent and systemic forms of gender-based discrimination. **The Global Digital Compact must encompass an intersectional gender perspective that takes into consideration the needs of women and girls, and people of diverse genders and sexualities, in all of their diversity.** The Global Digital Compact must be based on binding, universal standards that adopt a human rights-based approach and must recognise the different impact that information and communications technologies (ICTs) have on women, girls and people of diverse genders and sexualities.

CONTENT GOVERNANCE

Accurate identification of content that is illegal or that violates digital platforms' terms of service (e.g., disinformation, hate speech, harassment, or incitement to violence) is extremely difficult and context-sensitive. All measures to moderate content must ensure that people's freedoms of expression, assembly and association are respected, and any interference with human rights must be necessary and proportionate.

States should refrain from generally mandating monitoring of all content on online services or requiring platforms to use algorithms to preemptively identify and remove illegal or harmful content, as such measures cannot meet the condition of proportionality.

The emphasis of State and UN action should be on procedural requirements such as human rights due diligence, impact assessments, and mitigation measures; transparency, stakeholder engagement, and access to remedy. States should never criminalize posting or sharing false information online. Regulations should require public authorities to publish regular reports with transparent information about their content takedown requests, including the number of requests, the type of requests, and their rationale.

Platforms must develop and enforce their content moderation policies in a way that is least restrictive to human rights, consistent, and fair, regardless whether content moderation is done via human or automated means. They should implement effective internal grievance mechanisms to appeal content decisions and other decisions affecting users, report public authorities' requests for removal of online content, and their compliance thereof.

SURVEILLANCE TECHNOLOGIES

Spyware and unlawful targeted surveillance poses unacceptable threats to the right to privacy, freedom of expression, assembly, and association and can facilitate related human rights violations. **UN bodies and states must therefore implement an immediate moratorium on the export, sale, transfer, servicing, and use of digital surveillance technologies, as well as a ban on abusive commercial spyware technology and its vendors.** States must hold the companies who develop and distribute these technologies, and their investors, accountable for any harm occurred and provide remedy to victims. They should provide transparency from said companies around their clients and practices, in particular regarding their data collection and processing practices.

Biometric surveillance tools have the capacity to identify, follow, single out, and track people everywhere they go, undermining human rights. Experts agree that no technical or legal safeguards could ever fully eliminate the threat they pose. **UN bodies and states must therefore prohibit the use of facial recognition and remote biometric recognition technologies that enable mass surveillance and discriminatory targeted surveillance in public and publicly accessible spaces** by government agencies, without exemptions for law enforcement, criminal investigation, border control, counter-terrorism, and security agencies. They should prohibit government agencies, especially law enforcement agencies, from using and accessing data and information derived from the use of these technologies by private companies and other private actors. They should furthermore prohibit the use of these technologies by private entities in public spaces, publicly-accessible spaces, and places of public accommodation, where such use could enable mass surveillance or discriminatory targeted surveillance.

Those engaging in the practice of journalism, including by cultivating sources, gathering information, and producing and disseminating reports, are not legitimate surveillance targets.

UN bodies and states should reaffirm protections for all journalists and media workers and safeguard press freedom, which is essential to the defense of human rights and democratic values.

UN bodies and states should commit to push back against national laws that seek to limit human rights and civic space online and offline, including national security laws, counter-terrorism, and emergency measures that unduly restrict human rights. They should legally require that private surveillance companies disclose products and services offered and sold, including when using for national security and/or counter-terrorism purposes, and their clients. Regulatory frameworks on algorithmic-driven surveillance systems should not grant blanket exemptions from rules related to transparency, accountability, accuracy, and quality of algorithmic-driven surveillance systems under the guise of national security or counter-terrorism.

INTERNET SHUTDOWNS

Internet shutdowns — of any form — violate fundamental human rights and cause incalculable damage to all people, especially marginalized groups and individuals. Internet shutdowns also negatively impact the economy, health care, education, and more. As economic activity moves onto digital platforms, cutting off or disrupting access to the internet means denying people — particularly women and marginalized groups in the global majority — their capacity to afford basic necessities, such as food, water and electricity, and the means to improve their health and education.

States often attempt to justify imposing internet shutdowns on the basis that the measures are “necessary.” However, in reality, States typically order internet shutdowns to quell protests, censor information, and gag individuals during important national events, such as elections.

UN agencies and States must double efforts to ensure an open, free, interoperable, secure and reliable internet worldwide. UN agencies and States must specifically take action, including to:

- Condemn internet shutdowns worldwide, by calling on States to pledge to refrain from imposing internet shutdowns in the future, particularly amid protests and elections;
- Monitor shutdowns that do occur for their adverse impacts on economic, social, cultural, civil, and political rights;
- Fund connectivity initiatives for individuals, particularly those at risk of marginalization and vulnerability in the global majority, to connect to an open, free, interoperable, secure, and stable internet, and
- Enact regulatory reforms that enable community-level networking more accessible to groups traditionally excluded from telecommunications infrastructure, including indigenous, rural, and low-income communities.

DIGITAL PUBLIC INFRASTRUCTURE

Digital public infrastructure is a relatively new, evolving concept that can refer to systems that build on internet access and mobile connectivity to manage people's access to public services, conduct business, and collaborate with one another. These functions include, but are not limited to identity, transactions and money transfers, and data exchanges in health and other sectors.

While the construction, development, and maintenance of digital public infrastructure may be necessary to address development needs, human rights safeguards must be adopted at all stages. **UN agencies and States must not condition the delivery of essential services and fundamental rights on the participation of an individual in digital identity programs. Any DIP projects must adhere to data protection principles and adopt adequate human rights safeguards.** This includes efforts such as decentralized data storage, encrypted communications and privacy by design principles.



Access Now (<https://www.accessnow.org>) defends and extends the digital rights of individuals and communities around the world. As a grassroots-to-global organization, we partner with local actors to bring a human rights agenda to the use, development, and governance of digital technologies, and to intervene where technologies adversely impact our human rights. By combining direct technical support, strategic advocacy, grassroots grantmaking, and convenings such as RightsCon, we fight for human rights in the digital age.

For more information, please contact: un@accessnow.org



European Center for
Not-for-Profit Law

The European Center for Not-for-Profit Law (<https://ecnl.org>) works to protect and promote civic space. We empower civil society by creating legal and policy environments that enable individuals, movements and organizations to exercise and protect their civic freedoms and to put into action transformational ideas that address national and global challenges. Through research, advocacy, and capacity building, we advocate for protections of civic freedoms in the development and regulation of emerging technologies and AI.

For more information, please contact: info@ecnl.org

RECOMMENDED RESOURCES

GENERAL

- ECNL/ICNL, [Joint Submission to the Global Digital Compact Consultative Process](#) (2023).
- Access Now, [Oral Statement for the UN Global Digital Compact Thematic Deep Dive on Data Protection](#), (24 April 2023).
- Access Now, [Oral Statement for the UN Global Digital Compact Thematic Deep Dive on Internet Governance](#), (13 April 2023).
- Access Now, [Oral Statement for the UN Global Digital Compact Thematic Deep Dive on Human Rights Online](#), (8 May 2023).

HUMAN RIGHTS DUE DILIGENCE

- UN Office of the High Commissioner for Human Rights, (2011), [UN Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy Framework](#), UN Doc. HR/PUB/11/04.
- UN Secretary General, (2020), [Roadmap for Digital Cooperation](#), UN Doc. A/74/821.
- UN OHCHR B-Tech Project, (2020), [Addressing Business Model Related Human Rights Risks](#).
- UN OHCHR B-Tech Project, (2020), [Identifying and Assessing Human Rights Risks related to End-Use](#).
- UN OHCHR B-Tech Project, (2020), [Taking Action to Address Human Rights Risks Related to End-Use](#).
- UN OHCHR B-Tech Project, (2021), [Bridging Governance Gaps in the Age of Technology – Key Characteristics of the State Duty to Protect](#).

GENDER EQUALITY

- UN Commission on the Status of Women Sixty-Seventh Session (CSW67), (2023), [CSW67 Agreed Conclusions](#), UN Doc. E/CN.6/2023/L.3.
- UN Human Rights Council, (2018), [Resolution on Accelerating Efforts to Eliminate Violence Against Women and Girls: Preventing and Responding to Violence Against Women and Girls in Digital Contexts](#), UN Doc. HRC/RES/38/L.6.
- UN General Assembly, (2020), [Resolution on Women and Girls and the Response to the Coronavirus Disease](#), UN Doc. A/RES/75/157.
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2021), [Report to the UN General Assembly: Gender Justice and Freedom of Expression](#), UN Doc. A/76/258.

CONTENT GOVERNANCE

- UN Secretary General, (2023), [Policy Brief on Information Integrity on Digital Platforms](#).
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2023), [UN Human Rights Council Report: Sustainable development and freedom of expression: why voice matters](#), UN Doc. A/HRC/53/25.

- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2022), [UN Human Rights Council Report: Reinforcing media freedom and the safety of journalists in the digital age](#), UN Doc. A/HRC/50/29.
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2021), [UN Human Rights Council Report: Disinformation and freedom of opinion and expression](#), UN Doc. A/HRC/47/25.
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2019), [UN Human Rights Council Report: Online hate speech](#), UN Doc. A/HRC/74/486.
- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2018), [UN Human Rights Council Report: Online content regulation](#), UN Doc. A/HRC/38/35.

SURVEILLANCE TECHNOLOGIES

- UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, (2019), [Surveillance and human rights](#), UN Doc. A/HRC/41/35.
- UN Human Rights Council, (2022), [Resolution on the Promotion and Protection of Human Rights in the Context of Peaceful Protests](#), UN Doc. A/HRC/50/L.16 at para 30-31.
- UN High Commissioner for Human Rights, (2022), [The right to privacy in the digital age](#), UN Doc. A/HRC/51/17.
- UN Special Procedures, (2023), [Joint Statement: New and emerging technologies need urgent oversight and robust transparency](#).

INTERNET SHUTDOWNS

- UN Human Rights Committee, (2011), [General Comment No. 34, Article 19: Freedoms of opinion and expression](#), UN Doc. CCPR/C/GC/34 at para 43.
- UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, (2011), [Joint Declaration on Freedom of Expression and the Internet](#).
- UN Human Rights Council, (2020), [Resolution on the Promotion and Protection of Human Rights in the Context of Peaceful Protests](#), UN Doc. A/HRC/RES/44/20.
- UN Secretary General, (2020), [Roadmap for Digital Cooperation](#), UN Doc. A/74/821.
- UN Office of the High Commissioner for Human Rights, (2022), [Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights](#), UN Doc. A/HRC/50/55.
- UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, (2021), [Report to the UN Human Rights Council \(Addendum\): Internet shutdowns: a path forward](#), UN Doc. A/HRC/47/24/Add.2.

DIGITAL PUBLIC INFRASTRUCTURE

- UN Human Rights Council, (2019), [Resolution on Global Health and Foreign Policy: An Inclusive Approach to Strengthening Health Systems](#), UN Doc. A/RES/74/20, at OP32.
- UN Secretary General, (2020), [Roadmap for Digital Cooperation](#), UN Doc. A/74/821.
- UN Human Rights Council, (2021), [Resolution on the Promotion and Enjoyment of Human Rights on the Internet](#), UN Doc. A/HRC/RES/47/16 at OP6.
- UN Human Rights Council, (2022), [Resolution on the Role of Good Governance in the Promotion and Protection of Human Rights](#), UN Doc. A/HRC/RES/51/5 at PP31.