# Civic Space & Tech
## Brief

## WHAT ROLE DOES STANDARD-SETTING PLAY?

Technical standards allow the interoperability of digital tools. Various technologies – from HTML to 5G to JPEG – are shared between companies and across State boundaries, allowing for global communications and internet connectivity. Open internet protocols and related standards are largely developed and maintained in open multistakeholder processes. Though usually voluntary, such standards incentivize cooperation and serve a regulatory function by providing guidance on requirements necessary for market participation.

## HOW DO TECHNICAL STANDARDS IMPACT HUMAN RIGHTS?

The standardization of **technical features can protect against or facilitate human rights violations and abuses**. Introducing a "backdoor" to encrypted technology, a proposed technical feature that would facilitate a surveillance and privacy abuses, could in turn impact a range of rights such as freedom of expression, security, fair trial and belief. On the other hand, standardizing the use of encryption would help protect against such infringements. In another example, the Domain Name System is fundamental to how internet-enabled devices operate but is designed in a way that makes it one of the most prominent means of blocking access to websites and services.

Certain standards **directly address specific human rights concerns or user experience**, such as those intended to make the internet and digital technology more accessible for persons with disabilities. Standards addressing AI may impact whether such systems facilitate discrimination based on embedded biases, while standardizing error codes that appear on inaccessible websites can help users understand whether they are experiencing technical difficulties or censorship.

Standard-setting organizations (SSOs) and their processes are often designed in ways that erect **barriers to participation by the whole range of affected stakeholders** or have embedded biases that further entrench human rights concerns.

## WHAT ARE THE CHALLENGES TO A RIGHTS-RESPECTING APPROACH TO STANDARDS?

There is growing awareness of human rights concerns at SSOs, but **the expertise and capacity necessary to integrate human rights into their processes is largely lacking**. Human rights commitments are often absent, as are human rights due diligence, impact assessments, and monitoring processes. Participants mostly have engineering, computer science and natural science backgrounds, while human rights expertise and other related fields are underrepresented. Additionally, there is some resistance to considering "non-technical" aspects within standard-setting processes.

A **lack of transparency and gaps in participation** prevent standard-setting processes from fully considering potential human rights impacts. Participants overall lack diversity, in part due to restrictive membership structures. Participation is skewed towards high- and middle-income countries, and away from small and medium sized enterprises and stakeholders from the Global South. There is a persistent gender gap. Processes are often opaque and complicated, while frequently failing to seek or receive meaningful public inputs. When opportunities to engage exist, the prevalence of English nevertheless excludes stakeholders.

# WHAT SHOULD BE DONE?

**Standard-setting organizations should:**
☑ Commit to and follow through on rights-respecting practices. They should **avoid developing standards that facilitate human rights violations and abuses**.

☑ **Build their capacity to integrate human rights** into their work by recruiting and/or drawing on staff with human rights expertise. They should undertake internal reviews of how to make their operations more rights-respecting, systematically conduct human rights due diligence, monitor the human rights impacts of their standards and develop appeals mechanisms.

☑ **Make standard-setting processes as transparent, open and inclusive as possible**. They should promote participation by holding meaningful public consultation and minimizing barriers to participation, including by reducing or dropping fees and funding travel for underrepresented stakeholders. SSOs should publish participant demographics and work towards gender equity. They should ensure that all of their documentation, including minutes, working documents, proposed and adopted standards and participant lists, are available to the public for free.

☑ **Businesses should ground their participation in SSOs in the UN Guiding Principles on Business and Human Rights**, which outline their responsibility to respect human rights and to address adverse impacts. They should conduct human rights due diligence regarding their participation in standard-setting processes and the resulting standards. This includes carrying out adequate human rights impact assessments and meaningful engagement with potentially affected stakeholders.

☑ States must act in line with their human rights obligations. When participating in SSOs, **States must refrain from developing standards that facilitate human rights violations and abuses**. When States delegate powers to SSOs to define regulatory requirements, they must ensure transparency, participation, accountability and access to remedies, keeping in mind that delegation does not absolve States of their obligations under international human rights laws.

For more details, see our report A/HRC/53/42 on human rights and technical standard-setting processes for new and emerging digital technologies. Note: The linked report is the advance unedited version as of 7 July 2023. This document will be updated when the final report becomes available.