NHRC
اللجنة الوطنية لحقوق الإنسان
National Human Rights Committee

NEW AND EMERGING DIGITAL TECHNOLOGIES AND HUMAN RIGHTS

Q.1

New and emerging digital technologies positively impact the enjoyment of human rights through the opportunities it offers in many spheres, including but not limited to:

- Enhancing health care services and predicting disease outbreaks.
- Discovering students' weaknesses in different education stages, while seeking to address them.
- Improving agricultural methods and helping farmers adapt to climate change and provide food security.
- Mitigating climate change and predicting natural disasters.
- Facilitating the lives of persons with disabilities and the elderly, regardless of their needs.
- Preventing or at least minimizing human and material losses resulting from road accidents.
- Contributing to more efficient government services, while making it easier to access them.

On the other hand, new and emerging digital technologies negatively impact the enjoyment of human rights due to risks, including but not limited to:

- Facilitating mass surveillance on an unprecedented scale.
- Promoting misinformation.
- Promoting bias in labor markets, particularly against marginalized groups who are most vulnerable to violations.
- Increasing rates of bias in criminal justice on the basis of color, race, religion, economic status, income rate, place of origin, and so on.
- Finding ways to promote financial discrimination against marginalized and vulnerable groups.
- Weak accountability resulting from human rights violations by this technology.

It shall be noted that there are ethical standards governing new and emerging digital technologies that have been put in place by countries on an individual level, a

continental bloc, by the companies themselves, or stakeholders from global human rights bodies, UN agencies, scientific and research institutes, and so on. However, such standards do not amount to serving as an internationally binding legal standard. Moreover, these standards vary in respect to the interests of the producing party, even if they have common denominators. In addition, they lack accountability and follow-up mechanisms in case of non-compliance with them.

Q2

Many examples can be given to best illustrate the relationship between new and emerging digital technologies and human rights, most notably:

- Content and quality applications that control how individuals can access, exchange, and share information and knowledge, and the scope, people, and timing of such sharing. Usually, personalization reinforces bias based on gender, race, color, etc. This personalization also leads to the promotion of inflammatory content or misinformation provided to users. In other cases, social media algorithms and software may be structured in a biased way, with the aim of accessing specific information to influence the choices of individuals and their public participation in free and fair elections.
- Content filtering and deletion applications as per applicable standards in electronic platforms, especially social media. Often, this leads to subjecting user accounts to warnings, suspensions, or violations of the terms of service when these platforms claim that the content is harmful, inappropriate and illegal, especially when the revision is based on the presence of words, images, or videos on discriminatory and selective grounds, which are indicated as inciting violence, hatred, and racism in certain issues. This affects freedom of expression, thought, religion, assembly, access to and circulation of information, and so on. In many cases, the content is deleted and the information provided is controlled by government agencies, which affects the freedoms of thought, expression and assembly.
- Stereotyping, advertising and targeting applications that exploit personal data and perpetuate the idea of discrimination in announcing certain jobs for specific groups and excluding others on the basis of gender, color, religion, wealth, education, or otherwise. Such applications are usually used with facial recognition feature to identify human faces in public places in order to enhance surveillance, especially mass surveillance of certain marginalized groups such as minorities or political oppositions that want to exercise their right to peaceful

assembly and express their views or various grievances. Moreover, dialect recognition applications to identify countries of origin of asylum seekers during the review of asylum applications, and Voice Print Recognition (VPR) applications that track telephone conversations have serious implications on human rights.

- The applications violate human rights in terms of privacy and movement when they provide detailed information about an individual's movements and predict his future location, especially when their purpose is to restrict freedom of movement at the individual and group levels. However, it must be noted that such applications are useful in the case of alternative punishment measures or during response to health pandemics like Covid-19. Digital applications also transform fragile societies into data, especially with the increasing digital footprint in a way that violates the right to privacy.
- Robots are increasingly replacing humans for many tasks. Thus, new questions began to be raised on the human rights system, for example who bears responsibility and accountability when a robot commits medical errors during surgeries and disease diagnoses, and the same is the case when a human is exposed to a collision from a robot-driven car? With regards to property rights, the American People for the Ethical Treatment of Animals (PETA) Organization filed a case before the Federal Court in San Francisco, United States, in 2015 regarding the property rights of the monkey "Naruto" for some of selfie photographs captured by a camera owned by British photographer David Slater after the latter published a book with a selfie of the monkey on its cover.

Q3:

Standard-setting organizations should integrate human rights considerations in technical standard-setting processes for new and emerging digital technologies, through:

- Converting the current discussions on digital technology from an ethical perspective based on the idea of achieving the common good into a legal human rights-based perspective, while establishing specific legal obligations that provide a basis for accountability for any human rights violations.
- Examining such technologies through a human rights perspective to analyze the current and future harms that they could cause or further exacerbate and take the necessary measures to avoid any potential harm to the enjoyment of human rights.

- - Shedding light on the development of effective legal remedies against the harms caused by this technology, so that there are mechanisms for accountability and holding responsibility for its harms to human rights.
- Pushing companies to develop technology that respects human rights before putting it on the market and changing scientific research rules based on quick profit without paralleling that with producing safe, responsible technology with ethical outcomes.
- Developing mechanisms for joint action between those concerned with human rights, technicians, research institutions and international institutions in order to scrutinize this technology and subject the industry and those in charge of it to accountability in accordance with the International Human Rights Law.
- Drawing the attention of States – being the party charged with protecting human rights – to implement their international and national legal obligations regarding control of digital technology and directing it in a way that does not prejudice human rights, by protecting the rights of individuals under their jurisdiction, including protection from harm caused by third parties, namely the companies producing digital technology and holding them accountable both locally and internationally. Furthermore, this technology produced by companies in favor of countries in order to control human rights is subject to accountability by the international community, given that human rights are internationally recognized in legally binding international treaties. Hence, human rights can provide accountability for programmers and other major perpetrators. The state is also responsible if it does not do all in its power to prevent these violations by private sector companies, hold them accountable and provide means of protection, respect and remedy.

Q4:

Among the most prominent standard-setting organizations that are particularly relevant for human rights in the context of digital technologies:

- Companies producing such technologies, especially the Tech Giants (web workers).
- Universities, research institutes and academies concerned with human rights and digital technology (faculties of law and philosophy, faculties of technology and technical research centers).
- Ministries and authorities concerned with human rights and digital technology.

- International organizations such as the United Nations, UNESCO and the European Union, especially those concerned with human rights and digital technologies. It is noteworthy that these bodies, such as UNESCO, have issued their recommendations regarding the ethical use of Artificial Intelligence (AI) and its regulation.
- International and regional NGOs, such as Amnesty International and Human Rights Watch, Article 19 of UDHR and others. It must be noted that these bodies have issued their recommendations regarding the ethical use of Artificial Intelligence (AI) and its regulation.
- NHRIs and GANHRI and regional networks.
- World Economic Forums and sustainable development bodies at the national and global levels.

Q5:

Among the most important common obstacles to effectively integrating human rights considerations in technical standard-setting processes for new and emerging digital technologies:

- Major corporations often dominate ethical discussions about digital technology, and therefore spread their own idea and the culture of their societies that often conflict with the values of other cultures and civilizations.
- Countries, in general, have different ideas about ethical principles related to digital technology, which has emerged in the codes regulating technology in this regard.
- The voice of citizens and states in the developing world, let alone human rights stakeholders, is often marginalized in proposals for ethical principles that come from developed countries and the producing companies themselves.
- The ethical approach dominating discussions of digital technologies makes the principles different from one country to another and from one company to another, according to the stakeholders who differ in their interpretation and the requirements necessary to achieve them.
- The inability to prosecute companies as well as the official or unofficial bodies that use technology irresponsibly or as a result of the lack of knowledge of this technology and its harms or misuse.
- Globalized digital technology requires international commitments that encourage international cooperation to hold companies and states accountable

to prevent harm to human rights, as well as the activation of awareness of its effects on human rights and the possibility of resorting to judicial and non-judicial remedies, whether by states, companies or individuals.

Q6:

Stakeholders' access, especially human rights institutions, to the standard-setting processes can be expanded through:

- Involving them in national and international studies on digital technology and human rights.
- Organizing regional and international events (such as conferences) on technology and human rights in order to reach recommendations on this subject to be adopted by the concerned bodies in the United Nations in the form of guidelines, a declaration of rights, or the development of an international legally binding instrument.
- Training human cadres capable of managing and organizing the work of current and expected technology systems, learning and teaching the methods and limits of their use and possible harms, and monitoring the extent of their impact on human rights. This shall be done in a manner that holds the violator accountable and ensures the proper use of this technology to achieve constructive goals without misusing it, as well as educating individuals about their rights to resorting to the judiciary to protect their rights.
- Ensuring private sector's commitment to prevent human rights violations as a result of digital technology. This requires cooperation with companies in assessing the risks or violations that technology may cause, while taking effective and appropriate measures to prevent or stop them if it is proven that they violate human rights, and directing programmers' efforts towards innovation that serves humanity and its progress.

Q7:

Among the most prominent challenges faced by stakeholders in technical standard-setting processes for new and emerging digital technologies:

- Their discourse does not focus on developing certain legal obligations in the field of digital technology based on and drawing from a human rights perspective.

- Digital technology has spread widely across borders (globalized), making the need for global regulation and codification more important than national regulation, which would mitigate the negative impacts on human rights.
- Rapid development of digital technology would create new and unconventional positive and negative impacts, which requires the creation of standards to accommodate developments. In particular, enumerating human rights-related impacts resulting from digital technology is impossible, because the fields that this technology penetrates are in themselves many and varied.
- Difficulty of codifying digital technology standards, since such technologies require the reconsideration of many ethical and legal concepts such as justice, fairness, transparency and accountability.
- Lack of comprehensive and broad knowledge among human rights defenders about digital technology, its uses and impacts, as is the case for researchers, engineers, and the scientific and technical community with regard to human rights discourse, which prevents the development of standards that control technology in the context of human rights.

Q8

The ways in which these challenges differ depending on the standard-setting organization:

- Human rights discourse contributes to the development of digital technology and supports human rights, but the technological discourse will not necessarily lead to the opposite.
- Human rights standards should guide digital technology when designing, manufacturing, using and processing it more than relying on ethical standards. The latter is also supposed to be consistent with human moral behavior, since technology, no matter how advanced, lacks the elements of conscience, dignity, rights and cultural diversity that characterizes human beings.
- Human rights organizations contribute to making digital technology safe and harnessed to serve and protect humanity, not to destroy it and cause its extinction. It also leads to it being accountable, understandable, and implemented transparently with respect for the dignity and rights of individuals.
- Human right type the organization works on (anti-torture, work, environment...etc.) requires focus on specialization in dealing with digital

technology, which requires that its approach be comprehensive and integrated in dealing with technology.

Q9:

The most important good practices for effective integration of human rights considerations in technical standard-setting processes include:

- Digital technology follows enforceable standards in human rights law. In this regards, human rights law has an effective role in confronting countries and companies that produce technologies by ensuring respect, protection, fairness, compensation, and reparations.
- It is possible for the concerned authorities in the United Nations (the Human Rights Council) to launch fact-finding missions concerned with digital technology, investigate its issues, and focus on the countries that produce it. This would lead to enriching awareness of its role in safeguarding and not violating human rights, as well as calling for more accountability for government and private agencies that you misuse such technology.
- Directing the attention of United Nations Human Rights Treaty Bodies to digital technology. Likewise, this is applicable to the Universal Periodic Review (UPR) mechanism, and its effects on human rights in its concluding observations and recommendations.
- Issuing research and reports by UN mechanisms on the impact of digital technologies on certain rights or groups.
- Integrating engineers, the scientific community, and technologists into the human rights discourse to be part of the development of future standards regarding digital technologies, and vice versa with human rights activists and defenders.

Q10:

Steps taken by Member States to ensure that human rights considerations are integrated into the standard-setting process for new and emerging digital technologies:

- The regulation of all new human rights required endorsement of current digital technology. This requires international community and its influencing actors to formulate a new international contract that takes into account human rights in

all its forms in the light of what digital technology creates, or at least the development of human rights to be consistent with the facts of digital technology, as it is not enough in this regard to only adapt the existing rights. In addition, technology must facilitate human life, promote rights and freedoms, and address other impacts or violations thereof.

- Adoption of data protection laws and guarantees related to accountability and transparency so as to mitigate the harms and negative consequences of digital technologies on human rights as a result of this use.
- Acknowledgment of the right of any human to obtain and access the information he\she wants about digital technologies and their producers, and to know how data are collected and used. This leads to raising awareness of this technology and the roles it plays, and individuals' understanding of its potential and expected harms regarding their rights and freedoms.
- Acknowledgment of the right of any human to correct his\her information in order to reduce the effects of the error produced by technology, as well as the right to restrict the use of his\her personal information, and even to delete it as long as it was created by others, or it is no longer necessary, is misused, or when his relationship with the concerned party ends. The right to clarification and interpretation of the automatic decisions that technology may take regarding humans should also be recognized as long as they are related to them.
- Activation of guarantees of using digital technologies by following open procurement systems with the utmost frankness, openness and transparency when they desire to obtain this technology so as to ensure that people easily understand it, know the purpose behind its purchase, how it is used and how it works. Additionally, transparency results in fulfilling the purposes of public control and accountability. Intellectual property protection should not be invoked as a pretext to evade control.
- Transparent and ongoing assessments throughout the technology life cycle are conducted to know the extent of its impact on human rights and to predict the negative impacts it may cause. Besides, bodies for accountability and sanctions texts formulation have been established.

End