Expert consultation on the relationship between technical standard-setting processes and human rights

15 February 2023, 10:00 – 13:00 CET and 15:00 – 18:00 CET

Interpretation available in Chinese, French, and Spanish
Room XX, Palais de Nations

Registration: https://indico.un.org/event/1003839/registrations/10028/

CONCEPT NOTE

I.   INTRODUCTION

1.   In operative paragraph 3 of resolution 47/23, the Human Rights Council requested the Office of the High Commissioner for Human Rights to convene an expert consultation, "to discuss the relationship between human rights and technical standard-setting processes for new and emerging digital technologies (…) and to submit a report thereon, reflecting the discussions held in an inclusive and comprehensive manner, to the Human Rights Council at its fifty-third" session.

2.   In operative paragraph 4 of the resolution 47/23, the Human Rights Council also requested the Office of the High Commissioner for Human Rights, "when preparing the abovementioned expert consultations and reports, to seek input from an to take into account the relevant work already done by stakeholders from diverse geographic regions, including States, international and regional organizations, the Advisory Committee, the special procedures of the Human Rights Council, the treaty bodies, other relevant United Nations agencies, funds and programmes, including the International Telecommunications Union, other relevant standard development organizations, and the Office of the Envoy of Secretary General on Technology, within their respective mandates, national human rights institutions, civil society, the private sector, the technical community and academic institutions".

II.   BACKGROUND

3.   Technical standards[1] cover a wide range of digital technologies and related infrastructures, services, applications, and devices that have enormous impacts on human rights. Beyond the technical implications, standards have far-reaching implications on economies, sustainable development, geopolitics and human rights.

4.   As the former Special Rapporteur on Freedom of Expression, David Kaye, noted in his report A/HRC/35/22 the "failure to mandate Transport Layer Security (TLS) as a feature of the Hypertext Transfer Protocol (HTTP) left web traffic vulnerable to censorship and surveillance," illustrating one example of how standards development without adequate human rights considerations may adversely impact human rights, such as the right to freedom of expression.

5.   Yet there is growing awareness that technical standard-setting processes often do not take full account of related human rights implications. Those processes are often opaque and difficult for civil society and others to access and regularly follow.

6.   With digital technologies increasingly underpinning many aspects of private and public lives, and with societies undergoing digital transformation, technical standards that undergird these technologies should be developed in a manner that takes full account of and respects human rights, and that incorporates voices of a diverse range of stakeholders, including those in vulnerable situations.

III.   EXPERT CONSULTATION

III. 1.   Goal

7.   The expert consultation will bring together States, relevant United Nations bodies, funds and programmes, including the International Telecommunications Union, other relevant standard development organizations, and the Office of the Envoy of Secretary General on Technology, international and regional organizations, the Advisory Committee, special procedures mandate holders, treaty bodies, national human rights institutions, civil society, the private sector, the technical community and academic institutions. Participation of experts with specific expertise on technical standard-setting and human rights will be encouraged.

8.   The consultation will be a platform for an in-depth discussion of the impacts of technical standards on the enjoyment of human rights. It will give stakeholders an important opportunity to analyse the role of standard-setting organizations and their stakeholders in upholding human rights. It will also seek to articulate measures that should be taken by standard-setting organizations, States, businesses, civil society organizations and others in order to better integrate human rights considerations

---

[1] In the following, the document refers to "technical standards" as a short form for "technical standards for new and emerging digital technologies".

into standard-setting processes. A particular focus will be on the gender-dimension of the development and implementation of technical standards.

9.   The outcomes of the consultation will be a key source for the drafting of the thematic report by the Office of the High Commissioner for Human Rights to be presented to the Human Rights Council at its 53rd session.

III. 2. Methodology

10.   In order to ensure the broadest participation of stakeholders, the expert consultation will be held in a hybrid format.

11.   Experts with diverse backgrounds and perspectives will introduce the themes of the different sessions, followed by moderated discussions between the experts. The discussion will then be opened for other participants representing States, civil society groups, standard-setting organizations, businesses and other relevant stakeholder groups.

III. 3. Sessions

12.   The expert consultation will be opened by high-level speakers representing a Member State, the International Telecommunications Union, and the Office of the United Nations High Commissioner for Human Rights. The consultation is structured in 4 sessions. Each session will have one chair/moderator and 3 to 4 panellists delivering opening statements highlighting key aspect of the topic of that session. This will be followed by a discussion of the issues raised between all invited experts. The last part of each session will be open for comments and questions from all other participants, followed by brief closing remarks from the chair.

13.   The expert consultation will open with an overview of the current landscape of technical standard-setting, followed by an in-depth discussion of the ways technical standards affect the enjoyment of human rights. The next session will identify challenges to a better integration of human rights considerations into standard-setting processes. The final discussion will seek to articulate ways forward for ensuring that technical standards will consistently be designed in a way that upholds and strengthens human rights.

14.   For more details on the sessions, see the following explanations:

Session 1: Setting the scene: overview of the standard-setting landscape

15.   This session will set the scene by providing an overview of the landscape of technical standard setting.

16.   Session participants will touch upon questions such as the following:

- What are technical standards and who are the key actors in the technical standard-setting landscape? What are the main objectives for standard-setting organizations and their stakeholders? Who are the main drivers of technical standards?

- How are technical standards developed? Through which formal and informal processes are technical standards developed, maintained, and updated?

Session 2: The human rights impacts of technical standards

17.   In this session, the participants will analyse and discuss various ways in which technical standards affect the enjoyment of human rights. Questions considered will include, for example:

- What is the relationship between technical standards and human rights? How can technical standards benefit or undermine the exercise of human rights?

- Who is at particular risk of human rights violations and abuses facilitated by decisions about the design of technical standards? In which way do technical standards affect women, girls and gender-diverse people?

- What are examples that can best illustrate the risks and impact of standard setting on the enjoyment of human rights?

- Once technical standards are developed, what are the challenges and opportunities for human rights during the implementation phase? What are the human rights responsibilities of organizations that implement technical standards, and how are human rights concerns considered during the implementation stage?

Session 3: Challenges to integrating human rights into standard-setting processes

18.   This session will identify obstacles that prevent technical standard setting processes from producing standards that are fully aligned with human rights. Aspects to discuss will include:

- How do membership structures affect decisions about technical standards? What incentives of the participating stakeholders influence those decisions?

- What challenges do civil society organizations, human rights experts and academics face that interfere with their meaningful and sustainable participation in technical standard-setting processes?

- How accessible are standard-setting processes to all stakeholders, including civil society organizations, human rights experts and academics? Do the policies and membership requirements of standard-setting organizations facilitate the participation of all stakeholders?

- How transparent are standard-setting processes in various fora, what information is accessible to the public?

- How much awareness about human rights exist within standard-setting organizations and their members?

Session 4: The way forward: what can be done to address the challenges?

19.   Building on the analysis undertaken throughout the day, this session will examine which steps should be taken to ensure consistent integration of human rights considerations in standard-setting processes. Among the questions to be discussed will be the following:

- Are there existing good practices, mechanisms or models to look to for effective integration of human rights in standard-setting processes?

- What has and has not worked, and why?

- What are the most important actors that can effectuate greater integration of human rights into technical standard-setting processes? How can they be supported?

- Are there other opportunities for greater collaboration between human rights and technical communities?