

Civil Society Joint Brief on the UN Global Digital Compact

What's at stake for internet governance and human rights

19 July, 2024

Introduction

We, the undersigned civil society organisations and individuals, who have been active in the United Nations (UN) Global Digital Compact (GDC) process since the onset, write to express our concerns regarding the state of the GDC from a human rights perspective. We release this because we understand that Member States have broken the silence procedure on the UN GDC Revision 3 which was set for 16 July 2024, 3:00 pm EDT. We also take note that, unlike all previous revised versions, Revision 3 has not yet been made publicly available.

Alongside many other stakeholders, we have invested countless hours over the past two years informing and guiding this process, engaging in the online and onsite consultations, deep dives, hosting events, and participating in conferences to center the discussion on those most impacted. We see this as a moment for the UN, and its Member States, to openly address how technology impacts its mandate and overall efforts to extend human rights, peace and security, the rule of law, and development. However, the GDC outcome document, as it stands, does not reflect the reality of what we see on the ground and in our diverse communities across the contexts of the Global Majority and Global North.

In this brief, we highlight the areas and aspects of greatest concern, including human rights and gender, support for the OHCHR, inclusive approaches to internet governance, consistency in terminology, and decentralization of power.

De-prioritising human rights and gender

First, and foremost, references to States' obligations under international human rights law are not sufficiently robust nor consistently mainstreamed throughout the text. We call on Member States to ground all objectives set out in the document in international human rights law. This includes adding references to "*international human rights law*" while also maintaining the role of international human rights law as a body of international law. For example, we are concerned that paragraph 30(d) refers to "international law" and fails to recognize the need for States to refrain from the use of mass surveillance and ensure that targeted surveillance technologies are only used in compliance with international human rights law, including the principles of legality, legitimacy, necessity, and proportionality. This paragraph should also acknowledge the need for States to promote privacy-preserving and rights-respecting technologies, including end-to-end encryption, pseudonymity, and anonymity, which secure and protect the confidentiality and security of digital communications, in accordance with various UN resolutions (including the UN Human Rights Council resolution on the *Right*

to privacy in the digital age [A/HRC/RES/54/21](#) and the new General Assembly resolution on the *Promotion and protection of human rights in the context of digital technologies* [A/RES/78/213](#)). We further call on Member States to add references to “international humanitarian law” and “international refugee law” where relevant for the same reasons.

In terms of effective gender mainstreaming, the gender lens should not only be applied as a distinct and independent objective, but also incorporated into all aspects of policy and program development. While the stand alone principle remains, the document could be more granular in its approach, inserting gender-specific language under each of the sections covering the GDC’s objectives, commitments, and actions. We note with concern that some essential references to gender equality have been removed. For example, the only reference to “gender equality” in the IA Objective (paragraph 56) was removed, as well as the reference to the prevention of gender-based violence facilitated by technology (TFGBV). Following the [feminist principles](#) presented by various civil society organizations at the beginning of the process, a gender perspective is essential to avoid deepening gender inequalities.

Inadequate support for the UN Office of the High Commissioner for Human Rights

We regret that the reference to the work of the UN Office of the High Commissioner for Human Rights (OHCHR) and the further operationalisation of its work through the voluntarily funded Digital Human Rights Advisory Service — which would be available “upon request” — in paragraph 24 has been weakened. We urge Member States to recognise the utility of this proposal in providing assistance to apply existing guidance relating to the application of international human rights law to the internet and digital technologies, reaching those who need it most, especially in the Global Majority. Without this function, we risk leaving the extensive OHCHR work on tech, business, and human rights to gather dust on the shelf.

Internet governance: under-inclusive in process and purpose

The multistakeholder approach, a foundational element of effective Internet governance, is very much at stake in the GDC process. Civil society, academia, the private sector, the technical community, and affected communities, are problematically not included meaningfully in consultations relating to the design or functioning of proposed new bodies and mechanisms, nor in the follow up or implementation of the GDC (see paragraphs 55, 56, 62, and 72). Yet, in paragraph 65, the GDC invites all stakeholders “to endorse the Compact and take active part in its implementation and follow-up.” How can civil society, and other stakeholders, endorse a text that has been negotiated only among States? To this end, we advise that proposals for new bodies and mechanisms should be preceded by meaningful multistakeholder consultation on the current gaps in the system, and mandate an inclusive and

multistakeholder approach to the design and functioning of any new bodies and mechanisms. This should also apply to development financing initiatives, including, but not limited to, digital public infrastructure, which often promote the adoption of technologies directed at maximising data collection, and digital transformation policies and programmes, which should be transparent, rights-respecting, and designed and monitored through an inclusive and meaningful multistakeholder process at international, regional and national levels.

We are deeply concerned that the GDC as drafted enables the centralisation and nationalisation of Internet governance through existing State structures, which inherently risks preferring the private sector, without explicitly calling on other non-state actors, particularly civil society and technical communities, in its call to action.

Further, while governments do have obligations to keep Big Tech accountable, the focus on Big Tech misses an opportunity to establish effective mechanisms to welcome civil society, the media community, and the technical community's inclusion in all aspects and levels of the governance processes necessary to implement the GDC.

We encourage Member States to meaningfully include and collaborate with all relevant stakeholders, especially marginalised groups, in all steps of the follow up and review processes and mechanisms proposed in the GDC. We note in particular the creation of a system-wide UN coordination office, in paragraph 72, as a proposal that risks creating more centralisation, without adequate participation. Before Member States agree on such a new office, we recommend an assessment of current gaps in system-wide coordination. The creation of any new office should involve robust discussion, with its potential governance structure, mandate, and funding sources made widely available. We also urge Member States to view the GDC as a key opportunity to leverage and strengthen existing rights-respecting processes and structures, ensuring complementarity and collaboration in its follow-up. Chief among existing processes are the World Summit on the Information Society (WSIS) and the Internet Governance Forum (IGF).

We understand that the creation of new mechanisms and spaces can be a relevant piece of the GDC implementation to help achieve the necessary buy-in from all stakeholders, and especially Member States. But part of this buy-in process should also rely on the prioritisation of some of the previously existing arenas like WSIS and the IGF, as well as avoiding duplication or delegitimisation of said efforts. We urge coordination and complementarity, seeking synergy with these established fora. In particular, GDC should recognise WSIS as a well-suited platform to align more intentionally the acceleration of the achievement of the SDGs with the implementation of the GDC.

Likewise, the Internet Governance Forum (IGF) requires greater recognition and support. Start with its substantive role: while Revisions 1 and 2 describe the scope of the IGF, in paragraph 27, as “*discussion on public policy issues related to the Internet,*” Revision 3 limits the IGF to “*discussion of Internet governance issues.*” This restriction

contradicts the mandate of the IGF, which “*serves to bring people together from various stakeholder groups in discussions on digital public policy,*” and the consensus UN General Assembly resolution welcoming the WSIS+10 Outcome ([A/RES/70/125](#)), which reaffirms “*the principle agreed in the Geneva Declaration of Principles that the management of the Internet encompasses both technical and public policy issues...*”

Better approach to new and emerging technologies

We urge Member States to be consistent with respect to the application of the full breadth of international human rights obligations across the whole lifecycle of technologies mentioned throughout Revision 3. Currently, Revision 3 inconsistently refers to different phases of the lifecycle of technologies (“servicing,” “use” etc.). For example, regarding artificial intelligence (AI) systems, Member States should rely on the approach adopted in the consensus UN General Assembly resolution *Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development* ([A/RES/78/265](#)), where the preambular paragraph 6 lays out the life cycle stages of AI systems. It is also important to note the need to build on existing international agreements to respond to some of these risks, including IGF discussions, UN Human Rights Council Resolution on the *Right to Privacy in the Digital Age* ([A/HRC/RES/48/4](#)), and the recommendation of the High Commissioner for Human Rights, which calls for a moratorium, or even a ban, on AI tools “*that cannot be used in accordance with international human rights law.*” The GDC should further commit Member States and technology companies to refrain from or cease the use of new and emerging digital technologies that are fundamentally incompatible with international human rights or that pose undue risks to the enjoyment of human rights (cf. OP5 in [A/RES/78/213](#)).

New and unfamiliar terminology

We are concerned that the language contained in the Revision 3 will be misinterpreted by Member States to allow for more state intervention and undermine existing agreed-upon understanding of an open, free, global, secure, interoperable, and resilient internet. For instance, in Revision 3 the internet governance section introduces a new qualifying term “reliable” to the internet. This novel term is open to misinterpretation as it can be equated with other clearly understood and consistently used qualifiers, thereby creating uncertainty about the extent to which the GDC is calling for a materially different Internet from the one states and stakeholders have been building together for decades. As an alternative, there is a clear reference to “stable” internet access in the WSIS process, as the 2005 Tunis Agenda asserts the need to “*facilitate access for all and ensure a stable and secure functioning of the Internet,*” as well as the Secretary General’s Roadmap for Digital Cooperation, e.g. “Section D: Trust, security and stability.” We therefore ask to ensure consistency across the GDC text and when referring to the internet use the terms “*open, free, global, secure, stable, interoperable and resilient internet...*” as a consistent formulation.

Centralisation of internet and digital governance in New York

Finally, we are concerned with the centralisation of internet and digital governance discussions in the UN in New York. For the past twenty years, our digital future has been discussed in UN institutions and multistakeholder fora that have allowed a wide range of states, civil society actors, and other stakeholders to be active participants. Moving discussions to New York will fundamentally change this and make our participation harder, considering the significant restrictions on access to the UN in New York for civil society organizations. We, therefore, recommend that member states refrain from centralizing functions within the Office of the Secretary-General's Envoy on Technology (Tech Envoy) and lean more on existing and decentralised institutions and multistakeholder processes. While we welcome closer collaboration with New York-based processes, in particular for the Sustainable Development Goals, and the Tech Envoy, we strongly believe that centralising digital governance and development in the UN system to New York will come at the expense of effective participation of civil society and states, especially from the Global Majority.

Signatories:

- Access Now
- ARTICLE 19
- Alliance for Universal Digital Rights (AUDRI)
- Aplus Alliance for Inclusive Algorithms
- Asociación Ciudad ViVa
- Association for Progressive Communications (APC)
- BlueLink.net
- Bruna Martins dos Santos, IGF MAG Member
- Center for Democracy and Technology
- Centre for Information Technology and Development (CITAD)
- Centre for Multilateral Affairs (CfMA)
- Collaboration on International ICT Policy for East and Southern Africa (CIPESA)
- Colnodo
- Derechos Digitales
- Digital Empowerment Foundation (DEF)
- Digital Rights Foundation (DRF)
- Dr. Konstantinos Komaitis, Senior Resident Fellow, Democracy & Tech Initiative, Atlantic Council
- Equality Now
- EsLaRed Escuela Latinoamericana de Redes
- European Center for Not-For-Profit Law (ECNL)
- Fantsuam Foundation

- Global Forum for Media Development (GFMD)
- Global Partners Digital (GPD)
- Global Network Initiative (GNI)
- Idec – Institute for Consumers’ Protection
- International Association of Women in Radio & TV (IAWRT -Kenya)
- International Center for Not-for-Profit Law (ICNL)
- InternetBolivia.org Foundation
- Myanmar Centre for Responsible Business
- Pollicy
- PROTEGE QV
- Tech Global Institute (TGI)
- TEDIC
- Women At The Table
- Women of Uganda Network (WOUGNET)
- Women’s Rights Online (WRO)
- World Wide Web Foundation