



# ICT POLICY AND HUMAN RIGHTS

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# DESCRIPTION OF THE SESSION

We'll seek to explore the intersections of digital policy frameworks and human rights. The session will describe, firstly, what are human rights, the international human rights framework, and the impact of ICTs on rights. Then, it will explore the role of policy at global and national levels to advance (or negatively impact) human rights online. Finally, we'll explore what we mean by a human rights and intersectional approach to digital policy through a practical exercise.

# What are human rights?

- Norms, principles or entitlements that are inherent to all humans, and which are:
  - Universal, i.e. they are applicable to all
  - Inalienable, i.e. they cannot lawfully be withdrawn
  - Indivisible, i.e. of equal import
- They are interconnected and interdependent



# Why are human rights important?

- Human rights vs. moral values
- Human rights are minimum guarantees
- A safety net that ensures:
  - Basic needs are met for all humans
  - Vulnerable groups are protected from abuse
  - Those in power are held accountable



# International human rights framework

At the international level, human rights are codified through the Universal Declaration of Human Rights (UDHR) in 1948, and they contain two categories of rights and freedoms that are interdependent.

- **Civil and political rights:** Right to life, liberty and security, freedom of expression, assembly and association, privacy. These are codified in – the International Covenant on Civil and Political Rights (ICCPR).
- **Economic, social and cultural rights:** Right to health, education, work, participation in cultural rights. These are codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

# Human rights frameworks

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International, regional and national context

- Other agreements that form part of the international regime include:
  - International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
  - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
  - Convention on the Rights of the Child (CRC)
- Regional frameworks;
  - European Convention on Human Rights (ECHR)
  - African Charter on Human and Peoples' Rights
  - American Convention on Human Rights
- National frameworks:
  - Constitutions and national laws



# Who does the human rights framework apply to?

- **Individuals and groups, who are the rights-holders**
- **Governments/States, who are the duty-bearers with responsibility to respect, protect and promote human rights**
- **Businesses, although not directly accountable for protection of human rights, still responsible for ensuring their protection and promotion (UN Guiding Principles on Business and Human Rights)**



# Conflicts & limitations of human rights

- There could be conflicts between the exercise of different rights, i.e, the right to expression vs. the right to security
- All rights are not absolute
- Limitations may be imposed for reasons of *morality, public order and the general welfare in a democratic society* (art 29, UDHR)
- Standards for permissible limitations: legality, necessity, proportionality, in pursuit of legitimate aim



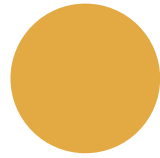


# Impact of ICTs on human rights

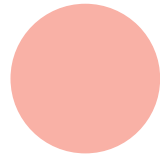
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- Right to expression and information
- Right to assembly and association
- Right to privacy
- Women's rights
- Other rights: education, livelihood, cultural life
- Access as a right

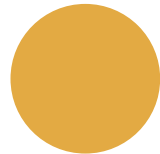
# Human rights & ICTs



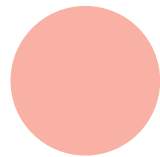
What are the implications of the internet and other ICTs on the implementation of human rights frameworks and national law?



Should online and offline behaviour always be treated in the same way in national legal and rights frameworks?



What responsibilities do internet intermediaries have under the international rights regime?



What should be the role of international agencies, such as the United Nations, and national governments in enabling, enforcing and protecting human rights on the internet?

# ICT POLICY AND HUMAN RIGHTS



ICT or digital policy deals with policy issues connected with digital technologies.

Refers to existing frameworks on issues such as data protection, privacy, freedom of expression, AI, and competition, access, cyber security, among others.

ICT policy may be national or international in scope.

Although policies are (in most cases) formally decided by governments and intergovernmental organisations, other stakeholders can engage in the policy process and influence its outcomes (multistakeholderism).

# ICT POLICY AT THE GLOBAL LEVEL

Relevant tools, agendas, frameworks, guidelines, resolutions, roadmaps, declarations and other instruments that even if they are not legally binding, or whose binding force is somewhat "weaker" than that of traditional law, can be used as a source of information or establish policy coherence with states' existing commitments to human rights.



# ICT POLICY

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## Global Level

- Resolutions and recommendations from international bodies, even when they are not binding, have powerful normative influence on the development of policy at national level.
- Policymakers can draw upon international instruments when seeking to promote a human rights perspective within local or multilateral policy spaces.

# ICT POLICY

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## Global Level

- Provide accountability: Government's commitments at international level can lead to amendment of a law, or acceptance of a visit of a UN Special Rapporteur.
- Important norm-setting documents that could be advocacy tools for human rights defenders.
- Over time, they could be codified into laws and national regulations.

# ICT POLICY AND HUMAN RIGHTS

Increasingly, global policy spaces are addressing digital issues. In 2012, the UN Human Rights Council affirmed that **the same rights that people have offline must also be protected online.**

Progress in recognising the relevance and impact of digital technologies across the range of human rights.





Growing number of international policy documents specifically addressing access, digital exclusion and digital divides.

UN HRC resolution on freedom of expression (2020) focused on the many forms of digital divides and how to address them.

UN HRC resolution on human rights in peaceful protests said that internet shutdowns contravene international law, affecting States' obligations to respect wide range of rights.

2030 Agenda and the Sustainable Development Goal 9.c, which aims to significantly increase access to ICT and strive to provide universal and affordable access to the Internet.





Growing number of international policy documents specifically supporting community networks and alternative models to connectivity.

G20 digital economy Ministers released a statement (2020) that includes a call to States to expand digital capacities by exploring non-traditional means of connectivity, such as community networks.

ITU Development sector recommendations stress the importance to consider non profit community operators through appropriate regulatory measures.

FOC joint statement on Digital Inclusion (2020) includes a call to support efforts to address barriers to access and specifically mentions CN among these efforts.

# GLOBAL ICT POLICY & RIGHTS

Recommendations coming out of the global norms or instruments discussions could (and should) promote human rights and a more secure cyberspace, but it's also possible that they might do the exact opposite.

For example, the cybercrime treaty and cyber norms discussions at the UN could end up with the creation of mechanisms and narratives that threaten human rights.



# NATIONAL ICT POLICY

National policy and legislation should comply with States' obligations under international human rights.

States should respect their human rights obligations in the development of policies, regulatory frameworks and legislation on the development and use of digital technologies.



# NATIONAL ICT POLICY

Policy sets out the vision for ICT and its links to national development goals.

Policy objectives have to be translated into policies, legislation and regulations.

Legislation establishes how policy is implemented by defining basic regulatory principles (for example, the importance of access) and processes (licensing) and the mandate for the institutions involved (for example, consultative, advisory and regulatory bodies).



# NATIONAL ICT POLICY

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Community networks  
recognition in national  
laws and policies

- **Argentina's** Resolution 4958/2018 defines CN and allows them to apply for licenses.
- **Brazil's** communication regulator (Anatel) explicitly recognised community networks as an option for Internet access (2020).
- **Kenya** highlights the need to provide an enabling framework for community based operators in their National Broadband Strategy.
- In **Mexico**, social use spectrum licenses include community and indigenous networks with nonprofit purposes.

# NATIONAL ICT POLICY

However, laws could end up undermining human rights. In recent years, there has been a surge in cybercrime laws based on broadly defined concepts of national security and public safety have opened the door for attacks against activists, journalists, rights defenders.

International human rights frameworks should be the default standards guiding technology-related policies.



# What is the right-based approach?

- The human rights based approach is a framework that tries to address inequalities, discriminatory practices and unjust or unequal power relations through a human rights lens.
- It puts people (rights-holders) at the centre of issues and decision-making processes by:
  - Empowering rights-holders to claim their rights
  - Ensuring duty-bearers fulfill their obligations to protect and respect human rights.



# **Rights based approach to ICTs**

A rights-based approach to the internet and ICTs recognises the internet as an enabler of human rights and that the same rights that people have offline must also be protected online. It includes ensuring meaningful access to a safe, open and secure internet that allows for the full exercise of human rights. It puts people at the centre of ICT policy and processes and holds states and businesses accountable for the protection of human rights online.





# WHAT IS AN INTERSECTIONAL APPROACH

Intersectionality is a framework that recognizes the multiple aspects of identity (such as race, caste, gender) that intersect and enrich our lives and experiences, but also create a complex system of oppressions and marginalizations.






An intersectional approach recognizes the full extent of the impact that technologies can have on human rights, acknowledging that technology is **never neutral** and reflects the values and interests of those who influence its design and use, and is shaped by the same structures of inequality that operate in society.

This requires moving beyond policies and strategies that treat all individuals and groups the same.

## WHAT IS AN INTERSECTIONAL APPROACH TO ICTs & ICTs POLICY

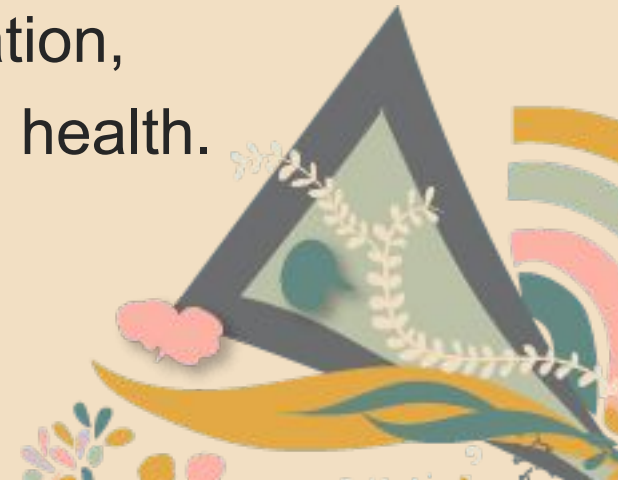


**“The only window to the outside world for many women happens to be social media.”**

Arshie Qureschi, writer and feminist activist from Kashmir

# **GENDERED IMPACTS OF INTERNET SHUTDOWNS**

Internet shutdowns can create peculiar vulnerabilities for women who, in their local realities, cannot have a presence in traditional public spaces. Gender also impact women's experiences of shutdowns in terms of safety, education, access to information, health.





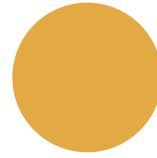
## EXERCISE

We will analyze an extract of a policy/law/measure using key guiding questions on the human rights and intersectional approach to ICT policy.

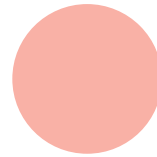
Communal tensions have flared up in your state. A lot of these tensions have been stoked over social media, with majoritarian voices engaging in threats against women belonging to minority groups with some prominent women in the community being doxxed online. The violence has escalated offline in one neighbourhood, with an armed mob gathering outside the house of an outspoken activist and threatening violence. The commissioner of police announces that initial investigations have indicated that WhatsApp groups and social media is being used to spread misinformation, private details of persons and for coordinating these attacks. They fear that other women might be targeted as well. Although the violence is restricted to a single city, the police call for a 48 hour internet shutdown in the entire state. The Ministers for Religious Affairs and Gender Justice welcome this move.

The decision is made possible as a result of the new Communications and Multimedia Act in your country, which states that the government can enforce internet shutdowns for up to 30 days without judicial oversight on grounds of "national security" or "public order". The law has been severely criticised by activists, who have called internet shutdowns illegal, citing UN reports, and a violation of human rights. Your country is a signatory to the UDHR, ICCPR and ICESCR.

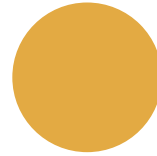
# INSTRUCTIONS



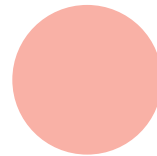
Read the questions and take 5' to think about your responses.



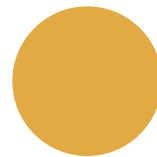
Place your answers to the sheet once there's consensus in the group.



Please ensure all participants in the break out group are present and have the chance to participate.



It's completely alright if you cannot address all the questions.



Please select one rapporteur to report back.



***Thank  
you***