



**Output document from the Parliamentary Track
16th UN Internet Governance Forum**

Legislative approaches for a user-centric digital space

8 December 2021

We, parliamentarians taking part in the Parliamentary Track at the 16th UN Internet Governance Forum under the theme Internet United,

Coming together in the context of the 16th UN Internet Governance Forum (IGF) and discussing issues relating to privacy and data protection rights in the digital space, the challenges of addressing harmful content online, and governance approaches for artificial intelligence (AI) systems,

Welcoming the expansion of the IGF Parliamentary Track, from a roundtable in 2019 and 2020, to a more comprehensive programme including five online preparatory sessions held prior to IGF 2021, and three topical sessions and a roundtable held during IGF 2021,

Acknowledging the role of UN Department of Economic and Social Affairs (DESA), the Inter-Parliamentary Union (IPU), and the lower chamber of the Polish Parliament – the Sejm – in co-organizing the IGF 2021 Parliamentary Track, as well as the support provided by the IGF Secretariat and the Department of Digital Policy in the Chancellery of the Prime Minister of the Republic of Poland,

Recalling UN General Assembly Resolution A/RES/74/304 which encourages strengthened cooperation between the United Nations, national parliaments and the Inter-Parliamentary Union,

Further recalling the outcomes of the parliamentary roundtables held at IGF 2019 and IGF 2020, which recommended that national parliaments cooperate and exchange good practices in dealing with digital policy issues, and noted the responsibility of parliamentarians to devise people-centric legal frameworks that respond to the challenges of the digital age,

Taking note of the UN Secretary-General's *Roadmap for digital cooperation* which calls for more actionable outcomes of the parliamentary track at IGF and the Secretary-General's report *Our common agenda*, which emphasize the importance of strengthened multistakeholder cooperation in addressing pressing digital policy issues in areas such as bridging the digital divide, protecting human rights, and ensuring online safety and security,

Noting that the technology-oriented world we live in is abundant in contradictions and divergent policy approaches, making it increasingly difficult to enact suitable and future-proof legislation for the digital space,

Promoting a user-centric digital space

1. *Acknowledge* that:

- As people lead more of their lives online, there is a clear policy imperative to make sure the digital space is a safe place. This calls for political leadership to take up the new challenges of the era;
- A considerable body of legislation already exists at the international, regional and national level that applies to the digital space (e.g. to combat hate speech regardless of where it occurs, online or offline). At the same time, the characteristics of the Internet and the digital space (e.g. cross-border nature, speed of content propagation) require specific legal approaches – a matter which tech companies tend to acknowledge as well;
- In order to stand the test of time, legislation should be principle-based, rather than rule-based. The fundamental human-rights-based principles that should underpin legislation have been set out clearly at the international and regional level (e.g. transparency, accountability, rule of law). Legislation needs to be drafted carefully, to the best tests of human rights standards. Conversely, legislation that is prepared hastily or seeks to set detailed rules for specific technologies risks quickly becoming outdated;
- The key – and the challenge – is for legislation to be smart, practical and workable. There is an inherent tension between flexibility (the capacity for the law to adapt to changing technologies) and clarity (the certainty as to how the law should be understood and implemented). Legislating for the digital environment is largely uncharted territory for parliaments, as well as for the private sector. We are learning by doing;
- Parliaments should act as facilitators so that all points of view are heard and taken into account. It is time for concrete multistakeholder discussions about how to achieve the necessary balance between fundamental human rights such as privacy and the right to freedom of expression and access to information, while also taking into account other important values such as consumer protection, innovation and business freedom. Regulators and the judiciary also need to be part of these discussions from the outset, as they will have a key role in applying the rules;

2. *Underline* that parliaments have a responsibility to ensure that the Internet and the broader digital space remain open, and, at the same time, safe and secure, and *reaffirm* that the solutions to digital policy challenges need to be human-centric and have users at their core;

3. *Recommend* that parliaments consider the following elements when developing legislation for the Internet and the digital space:

- Integrate transparency and multistakeholder consultations as essential parts of legislative processes;
- Ensure that regulatory processes and the regulations themselves are evidence-based;
- Consider – and avoid – potential unintended consequences of regulations. For instance:
 - Embed human rights impact assessments in the legislative processes;
 - Assess whether legislation adopted at the national and regional level may impact the global and interoperable nature of the Internet and the digital economy;
- Cooperate and exchange information with other parliaments, as a way to (a) learn from each other, and (b) contribute to regulatory coherence and interoperability at regional and global level;

Privacy and data protection

4. *Acknowledge* that protecting privacy and personal data in the digital space is both essential and increasingly complex, and *recommend* that parliaments devise or update, as appropriate, relevant legislation with consideration to the following principles:

- Responsibility, transparency, proportionality, necessity and the rule of law must guide the use of personal data by both private and public entities;
- Legislation should be mindful not only of protecting data itself, but also of protecting the individuals behind the data;
- Considering that the right to privacy is not an absolute right, a proper balance – with adequate checks and balances, and accountability mechanisms – needs to be found with other rights and public interests (e.g. public safety and security, access to information);
- Besides outlining rights and responsibilities, legislation should also contain provisions that enable a strong enforcement of the law, preferably by an independent and adequately resourced regulator;

5. *Underline* the importance of regulatory coherence and interoperability at the regional and international level, and *encourage* parliamentarians to collaborate and exchange information so that the laws they devise (a) acknowledge the cross-border nature of the digital space, (b) provide robust protections for the rights of individuals, including in the context of cross-border data flows, and (c) provide clarity and predictability to companies that operate across jurisdictions, while ensuring they are held accountable for meeting their obligations;

Tackling harmful content

6. *Express concern* over the proliferation of harmful content online, sometimes with dire consequences for democracy, human rights and safety, and *draw attention* in particular to the need for multistakeholder cooperation in tackling issues such as (a) the abuse directed towards women online, including women parliamentarians¹, which can limit their ability to participate freely in the digital space, and (b) online child sexual exploitation and abuse²;

7. *Recommend* that parliaments ensure that any legislation intended to address this issue:

- Ensures a proper balance between tackling harmful content and protecting freedom of expression and other internationally-recognised human rights;
- Balances the need to take quick action against harmful content with the need to ensure due process;
- Embodies principles such as transparency (e.g. on how content moderation works), judicial oversight, and appeal/redress mechanisms;
- Contains clearly defined legal terms and concepts so that legislation can be implemented and interpreted in a consistent manner;

8. *Call on* parliaments to encourage (a) awareness raising and capacity development programmes that empower Internet users with critical thinking and media information literacy skills, and (b) initiatives focused on supporting professional journalism, fact-checkers and overall media pluralism;

¹ See for example

<https://www.ipu.org/resources/publications/issue-briefs/2021-11/sexism-harassment-and-violence-against-women-in-parliaments-in-africa>

² See for example the IPU resolution at <https://www.ipu.org/file/13233/download>

AI governance

9. *Call on* parliaments to encourage:

- Domestic stakeholders to actively and meaningfully participate in international multilateral and multistakeholder processes and fora focused on promoting ethical and human-rights-based approaches to the development and use of AI;
- Governmental actors to conclude cooperation agreements with other countries designed to foster exchanges of experiences and technology transfers in the field of AI;
- Domestic stakeholders to develop and deploy AI in a manner that is consistent with principles outlined in documents such as the *OECD Principles for AI* and the *UNESCO Recommendation on the ethics of AI*³;

10. *Note* that some jurisdictions around the world have started working on regulatory frameworks for AI, and *recommend* that processes focused on developing legislative approaches to governing the development and use of AI consider the following:

- Before regulation is developed, there has to be a clear understanding of what needs to be regulated and why. Also needed is an assessment of existing laws and regulations and the extent to which they already apply to AI systems or can be amended to cover such systems;
- Taking a holistic approach when considering what about AI needs to be regulated: look not only at how AI impacts or may impact individuals and their human rights, but also at broader societal implications (e.g. in terms of public interest and the common good);
- When requirements are set for the development and use of AI, clarity should be offered in terms of roles and responsibilities for implementing those requirements, as well as for monitoring the implementation;
- Ensuring that regulation is flexible, agile, future-proof as much as possible, and does not unduly stifle innovation;
- Paying attention to principles already embedded into guidelines and frameworks for AI developed at international level, such as those developed by the OECD, Council of Europe, and UNESCO (e.g. transparency, human oversight, accountability);

11. *Invite* parliaments to (a) encourage the responsible use of AI as a tool for advancing sustainable development and improving governmental services, and an instrument for evidence-based policy making, where appropriate, and (b) promote the integration of AI in formal educational curricula and informal training programmes;

Parliamentary participation in the IGF

12. *Call on* parliaments and parliamentarians to continue to build their capacity to engage with digital policy issues and to share experiences and good practices on a regular basis;

13. *Encourage* parliaments and parliamentarians from around the world to deepen their engagement with the IGF and to consider additional modalities to contribute to global processes dedicated to advancing digital cooperation;

³ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449> and <https://en.unesco.org/artificial-intelligence/ethics#recommendation>

14. *Encourage* UN DESA, IPU and the Host Countries of future IGF meetings to continue to convene and strengthen the IGF Parliamentary Track, including through carrying out related intersessional activities;

15. *Commit*, as participants in the IGF 2021 Parliamentary Track, to convey the outputs of our discussions to the parliaments we are part of, to integrate them into our parliamentary work , and to build on them as we continue our engagement with the IGF.