IGF 2017 Reporting Template

Session Title:
Open forum on big-data, business and human rights

Date:
Tuesday, 19 December

Time:
17:20 - 18:20

Session Organizer:
European Broadcasting Union, Swiss Federal Department of Foreign Affairs and Council of Europe

Chair/Moderator:
Lee Hibbard, Council of Europe

Rapporteur/Note-taker:
Peter Kimpian, Council of Europe

List of speakers and their institutional affiliations:
Giacomo Mazzone Head of Institutional Relations, EBU
Rémy Friedmann, Senior Advisor, Desk Human Security and Business, Federal Department of Foreign Affairs (FDFA), Human Security Division, Deputy Head, Human Rights Policy Section, Switzerland
Corina Călugăru, Coordinator on Information Policy (TC-INF), Ambassador, Permanent Representative of Republic of Moldova to the Council of Europe
Alessandra Pierucci, Chair of Data Protection Committee of Council of Europe
Philippe Cudré-Mauroux, Full Professor at the University of Fribourg, Switzerland,
John Morrison, Executive Director, Institute for Human Rights and Business
Bernard Shen, Assistant General Counsel, Corporate, External & Legal Affairs, Business & Human Right, Microsoft

Key Issues raised (1 sentence per issue):

- If there were presentations during the session, please provide a 1-paragraph summary for each presentation:

   - **Lee Hibbard** started by asking the audience to reflect on whether they are either worried or excited about big data. The feedback was split between caution and optimism, with privacy and discrimination concerns on the one hand, and on the other hand a recognition of the enormous opportunities that big data could provide for society.

   - **Giacomo Mazzone** explained that addressing big data challenges requires collaboration across sectors. In the media sector, challenges materialise in the move from a 'linear' to an 'on-demand' world, where personal data on user behaviour is collected and could provide sensitive insights, often through third parties. Understanding how these challenges are addressed in other industries could help provide a solution.

   - **Rémy Friedmann** explained how the government of Switzerland is̶ plans to addressing̶ big data concerns through its National Action Plan on Business and Human Rights, which is to be reviewed at the end of 2018 and enshrines the duty of the state, the responsibility of businesses, and the requirement necessity to provide effective access to remedy of individuals'to those affected. access to remedy. The relevance of big data in this framework is cross-sectoral, which raises the question whether we can identify negative human rights impacts and act (preventatively) with other governments and stakeholders.

- **Corina Călugăru** presented the Council of Europe's work in order to cope with the challenges relation to the data protection issues that have been raisedarisen with the advent of big data. She explained that there are existing mechanisms to address the challengethose, including the Council of Europe's Internet Governance Strategy which involves the cooperation with Internet companies to ensure a more protective way to work on big data. Council of Europe's Convention 108 addresses data protection and is currently in the process of being modernised to be able to tackle new challenges. She closed her presentation by explaining that the new issues, mechanisms, and terminology related to big data can be difficult to digest for governments and civil society, and that it is important to develop an understanding among all stakeholders of how to protect human rights, the rule of law, and democracy in the big data age.

- **Alessandra Pierucci** highlighted the relevance of Convention 108, which is legally binding and open to ratification by states outside of the Council of Europe. Its modernisation process includes new provisions on transparency (the duty of data controllers to explain to data subjects how their data is being used) and on, new rights (including the right to object and not to be subject to automated decisions) and In the Guidelines on big data of the Convention Committee for Convention 108, the . The Council of Europe recognisesCommittee recognises the innovative potential of big data, but also notes the need to understand the ethical and social risks generated by the use of big dataneed to maintain the level of protection the current applicable legislation foresee for the processing of personal data. She explained the Guidelines clearly states that it is necessary to secure the protection of personal autonomy based on a person's right to control his or her personal data and the processing of such data and that the control requires awareness of the use of personal data and real freedom of choice.

- **Philippe Cudré-Mauroux**, leading the eXascale Infolab, provided an overview of the uses and methods of data science, which are often meant to develop descriptive, predictive, and – increasingly – prescriptive models. As data science makes it impossible to clearly understand in advance what kind of model will be developed and how it will be used, the very essence of data science might conflict with privacy rights. Transparency from industry players, privacy-preserving data science, and the automated brokering of personal data might help to make the two more compatible.

- **John Morrison** emphasised the complexity of the topic of big data and explained that existing human rights frameworks are 'stretched to the limit' trying to provide answers to its challenges. In addition, industry – and especially the 'industrial Internet' – is insufficiently addressing the human rights concerns of big data, attending mainly the short-term risk of data security.
- Think of recruitment, the acts, choosing a tenant if you are a landlord. Don't assume for a second that algorithms don't discriminate. The algorithms are designed to discriminate: that the purpose is of the algorithm. What happens if the algorithms discriminate overtly on covertly in res that would undermine human rights norms? The second example is consumer data. Consumers handing over huge amounts of data for years in exchange for a number of coupons. What happens when that profiling is used to steer their behavior and influence them? Third example, facial recognition technology has a lot of upsides, but what does that same technology mean in the hands of regressive governments?
- Ultimately, in the long term, we need to address the question of human agency: what happens when humans are isolated from decision-making processes? Morrison concluded that rather than transparency, the focus needs to be on individual and collective consent on how data is used.

- **Bernard Shen**, stated that artificial intelligence (AI) – generated by big data – always starts with a human purpose and can be used for good, he said. Nevertheless, it is important to be aware that it can be imperfectly applied, on the basis of incomplete or unrepresentative data. Partnerships

on AI are needed to learn from each other and develop good practices, and industry needs to live up to human rights principles.

- Please describe the Discussions that took place during the workshop session (3 paragraphs):

- An audience member asked whether perfect data – removed from human bias – could mitigate some of the human rights challenges. Yet, the panellists warned that biases are wired into the data, and that it is dangerous to think that they could be removed. Nevertheless, Bernard Shen reminded the group that human decision-making is also prone to flaws and unconscious bias, and it would be false to assume that human decisions are always superior to those generated by AI. In fact, AI might be able to detect and correct human bias. One participant indicated that rather than looking at biases in AI, we need to consider how it risks being used against individuals and to look into who has access to big data and thereby the power to misuse it.

- Please describe any Participant suggestions regarding the way forward/ potential next steps /key takeaways (3 paragraphs):

- In their concluding statements, Lee Hibbard raised the question of how to enforce legal instruments developed to mitigate big data's human rights risks, and Giacomo Mazzone added that trust is necessary in order to be able to capture the opportunities of big data. Remy Friedmann concluded by underlining the importance for companies to be aware of their responsibilities and the need for all stakeholders to address these risks and work together to maximise the positive potential of big data. A general remark that emerged from the debate was there is a need for like-minded companies or suppliers of services that want to establish a fair relation with their clients/customers/citizens need to work together and with civil society (under the vigilant role of the governments). With the common goal to find the best way to ensure high level personalized services, with the maximum respect of privacy in a human right respect perspective.

Gender Reporting

- Estimate the overall number of the participants present at the session: 50

- Estimate the overall number of women present at the session: 50%

- To what extent did the session discuss gender equality and/or women's empowerment? It was not discussed.

- If the session addressed issues related to gender equality and/or women's empowerment, please provide a brief summary of the discussion: