

**International Conference on the occasion of the 25th anniversary of the World Conference
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Background Paper for Working Group 1: Human Rights and Security

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1. Status Quo and Emerging Trends

Twenty-five years after the adoption of the Vienna Declaration and Programme of Action (VDPA), the enduring relevance of our commitments to address human rights challenges seems more and more confronted with indifference and even mistrust. Many people seem to consider human rights of little relevance to their own lives. Human rights are perceived as an instrument of support to marginalised groups. Populist attitudes intersect with this approach in numerous ways such as in political discourse. In order to adequately tackle this development and to make human rights more tangible for the general population, human rights actors need to understand correctly the roots of the diminishing confidence in human rights on the part of significant sections of society across many UN Member States. Effective communication of human rights as rights benefitting all parts of society is crucial in this regard.

The conference therefore intends to make a contribution to a future-oriented discourse that underpins the relevance of human rights to all of us. The human rights agenda of the next decades will be shaped by global trends which will have an impact on each and every human being: urbanisation, digitalisation, climate change, demographic changes. In these processes, human rights are more essential than ever – as a stabilising factor for effective rule of law, as a concept against social exclusion, as an important driver for sustainable security, as well as a guarantor and creator of justice and equality in a spirit of solidarity. Cities as increasingly important human rights stakeholders will play an integral role in the Vienna+25 Conference with the Human Rights City Vienna as a co-host of the conference.

The VDPA, adopted by the World Conference on Human Rights in Vienna on 25 June 1993, stipulates that human rights and fundamental freedoms for all contribute to the stability and well-being necessary not only for peaceful and friendly relations among nations, but also to improved conditions for peace and security, as well as social and economic development, in line with the UN Charter (VDPA, § 6).

The VDPA also underlines that the administration of justice, including law enforcement and prosecutorial agencies, and especially an independent judiciary and legal profession in full conformity with applicable human rights standards are essential to the full and non-discriminatory realisation of human rights, as well as to the processes of democracy and

sustainable development. According to the VDPA, such institutions should be properly funded and the international community should provide an increased level of both technical and financial assistance (VDPA, § 27). The VDPA emphasises the responsibility of States and international organisations, in cooperation with NGOs, to create favourable conditions at the national, regional and international levels in order to ensure the full and effective enjoyment of human rights.

In 2013, the Vienna+20 Conference inter alia focused on the important role of the rule of law, and related challenges, such as the significant implementation gap, as well as the lack of accountability for human rights violations, not only regarding States but also inter-governmental organisations, transnational corporations and other non-State actors.

Today, 25 years after the Vienna World Conference, these continue to be relevant challenges, also in the framework of the discussion on security and human rights. In tackling recent security threats across the world by increasing security measures, and with the additional challenge of an ever-growing pool of instruments of surveillance and data collection readily available, the relationship between freedom and security requires a permanent process of concretisation in our societies.

The relationship between security and human rights is a sensitive one, in which the State has a difficult balance to achieve: On the one hand, it has to protect individuals against interference in their human rights by others and fulfil their rights, notably to life, physical and moral integrity and the security of person. On the other hand, it must respect human rights obligations when acting, ensuring public security. The complex question how to manage this double obligation and where to find the right balance is continuously debated in relation to different areas, such as crime, violent extremism and radicalisation leading to terrorism, drugs, corruption, trafficking and the smuggling of persons, or cybercrime. State responses to these manifold challenges can severely limit and interfere with the human rights and freedoms of us all. A common denominator is that security and human rights are primarily portrayed as conflicting and hardly compatible with each other, even though the opposite should be true.

This background paper shall serve as an inspiration for discussions in the Working Group. It aims to contribute to these debates, discuss key challenges and, more importantly, measures to overcome these challenges, as well as recommendations for the way forward. The discussion will be guided, inter alia, by the following questions:

- *How can we broaden the security discourse to arrive at a holistic understanding and ensure sustainable security?*
- *How can we guarantee that security measures are designed in a way that any restrictions of freedom are compatible with international human rights law?*
- *How can we provide human-rights and evidence-based answers to security issues and what role do media have in promoting and disseminating those answers? How do we better communicate the relevance of human rights, including in the security discourse, for each and every one of us?*
- *Urbanisation and security: Which measures can cities develop to strengthen a human rights-based approach to urban security policy? How can we empower all people, in particular women, as rights holders?*

- *Digitalisation and security: Which groups are most at risk? What is the right policy mix to make use of the benefits of digitalisation while ensuring both security and respect for human rights? What is the role of new actors and the private sector in this regard?*

2. Guiding Questions

2.1 How can we broaden the security discourse to arrive at a holistic understanding and ensure sustainable security?

Development, peace, security and human rights are considered to be indivisible, as well as interrelated (UN System Task Team 2012, 7). Deficits in one of the dimensions will impact the others and deficits in one country will impact others.

What do we mean by “security”? There is no consensus on a particular definition of security. Some definitions focus on national security vs. global security or military vs. non-military security, others differentiate between State security, aiming to protect a country, vis-à-vis human security. One common element found throughout the different definitions is the idea of security as an absence of threats: “security is most commonly associated with the alleviation of threats to cherished values; especially those which, if left unchecked, threaten the survival of a particular referent object in the near future.”(Williams 2008, 5)

The concept of inter-state security has been evolving beyond classic military issues to include, on one hand, elements of so-called hybrid warfare, especially in cyber space, and, on the other, transboundary threats common to several States, such as terrorism, organised crime, and even consequences of climate change.

In contrast to a definition of security that focuses on the absence of war and violence, human security constitutes a more comprehensive approach that is commonly referred to as freedom from fear, meaning freedom from violence, freedom from want, e.g. adequate food, accommodation and health care, as well as the freedom to live in dignity, through the promotion and protection of human rights – thus bringing together development, human rights and security in one concept (UNDP 1994, 3). UNDP has noted seven dimensions that are the basis for human security: economic, food, health, environmental, personal, community and political (Gomes/Des Gasper, 2). This list is not exhaustive and different approaches have been focusing on additional factors. In 2012 the UN General Assembly underlined that all individuals, in particular persons in situations of vulnerability, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential (A/RES/66/290 [2012] § 3a).

Rates of violence are higher in societies that are unequal (Equality Trust 2017). Research on Mexico substantiated that a more equitable income distribution contributed to decreasing violence at the municipal level (World Bank 2014). Additionally, it has been found, that a decrease in inequality reduces homicides and robberies. Sociological research confirms that people also feel safer when they do not have to fear about their own future in terms of work, food, accommodation, etc.

The notion of security is thus very much interrelated with social security and the absence of inequality. This is also reflected by the fact that the actual situation of crime normally does

not correlate with the feeling of security of the population (Garland 2001, 10). Consequently, while the law enforcement sector plays a crucial role, it is important to acknowledge that it cannot by itself be made responsible to (re-)establish security or a general feeling of security, but social security measures and respective policies by the State are needed.

The important role of media, human rights education as well as evidence-based answers in addressing the topic of security and human rights, ensuring a constructive discourse about a sensitive issue, will be discussed further below. They all can provide valuable contributions to fostering the feeling of security among the population.

2.2 How can we guarantee that security measures are designed in a way that any restrictions of freedom are compatible with international human rights law?

While globally seen homicides have slowly declined in recent years and more citizens have access to justice, violent conflicts have increased (SDG 16). Armed conflicts are causing a high number of civilian casualties and progress in relation to peace and justice, including effective, accountable and inclusive institutions, differs across and within regions. The number of terrorist groups across the world has proliferated and international terrorism has been described as the “single greatest threat to the United Nations twin goals of protecting international peace and security and promoting human rights” (A/HRC/34/61 [2017] § 7).

The global fight against terrorism has had serious repercussions on the protection of human rights world-wide, notably after the terrorist attacks in September 2001 in the US and the subsequent ‘war on terror’ (Nowak/Charbord 2018, 36). Counter-terrorism laws, policies and practices have been criticised for eroding human rights and the use of arbitrary and secret detention, torture and extraordinary practices have violated absolute and universal human rights norms. Detainees continue to be held in Guantanamo Bay without trial until today.

The legitimate need of States to react to security threats has also been abused for repressive measures against political opponents, with a global consensus on the imperative of combating terrorism “so compelling that authoritarian governments could get away with their repressive practices simply by renaming political opponents as ‘terrorists’” (Scheinin/Vermeulen 2010, 22). These developments have also led to a shrinking space for civil society and a targeting of human rights defenders, journalists and activists (EU Parliament 2017; FIDH). In some countries, overly broad definitions to reduce financing for terrorism in reality meant restrictions for civil society and their funding (A/HRC/23/39 [2013], § 25; A/70/371 [2015], §§ 17-44). Particularly adverse effects have been highlighted regarding organisations that operate in contexts where terrorist groups are active and civil society might contribute with much needed assistance to populations.

Proclaiming a state of emergency that limits human rights can be a legitimate means to ensure security and stability. However, in recent years they have repeatedly been misused, violating the requirements of legality, proportionality and non-discrimination with devastating consequences for the rule of law, accountability and transparency, which at the same time bolster conditions conducive to terrorism (A/HRC/37/52, § 6).

Human rights violations are in general acknowledged to be among factors conducive to violent extremism and terrorism (ODIHR 2016, 3). Lack of effective oversight and accountability of counter-terrorism measures for State actions may generally increase the risk that its actions

are ineffective, and might in fact further fuel terrorism. It also undermines public trust in State authorities and support for their counter-terrorism efforts (OSCE/ODIHR 2014, 33-34). By protecting human rights, States will address conditions conducive to the spread of terrorism.

However, governments often argue that human rights constitute an obstacle to security, rather than an instrument to effectively prevent and combat security threats. They claim that security can be achieved only when restricting human rights, e.g. through the formulation of new and often vaguely-defined crimes, suspending of safeguards and banning of organisations and freezing of assets, without upholding due process and fair trial standards.

States face a “daunting task” (A/HRC/34/61 [2017], § 8) having to combine their positive obligations to protect those within their jurisdictions. However, it has been clearly recognised, that a purely security-based approach – as originally adopted by the UN Security Council in its resolution 1373 (2001) – is inadequate and often counter-productive. Security Council Resolution 1456 (2004), the UN Secretary General (A/59/2005 [2005], § 140), as well as regional instruments, such as the OSCE Charter on Preventing and Combating Terrorism and the OSCE’s Bucharest Plan for Combating Terrorism stipulate, that counter-terrorism and security measures have to comply with international human rights law. The UN Global Counter-Terrorism Strategy and Plan of Action reaffirms the inextricable links between human rights and security, and places respect for the rule of law and human rights at the core of national and international counter-terrorism efforts (A/RES/60/288 [2006]). In his Plan of Action to Prevent Violent Extremism, the UN Secretary General emphasised the need for a comprehensive approach to counter terrorism and violent extremism that goes beyond “law enforcement, military or security measures to address development, good governance, human rights and humanitarian concerns” (A/70/674 [2015], § 41). This means that human rights and security are to be understood as complementary goals, as human rights play an important role in making sure any efforts to counter terrorism and extremism, but also to ensure security more generally, are effective and sustainable (A/HRC/33/29 [2016], § 2; OSCE Charter 2002, § 20).

There are many practical examples for this: It has been affirmed repeatedly, that torture is not only a direct attack on the core of human dignity, but it is not effective in order to obtain a confession or information. Instead, non-coercive, investigative interviewing that is based on the presumption of innocence and follows an evidence-based approach to gather and test reliable information was confirmed to constitute not only the safest, but also the most efficient approach to solve crime and counter terrorism by practitioners and scholars (A/71/298 [2016]).

Safeguards during and following arrest, such as the right to access to counsel, the right to notify a family member, et al. are crucial to protect the human rights of individuals and to prevent torture (Carver/Handley 2016), while at the same time also benefitting society at large, due to fostering trust in institutions, making sure evidence is reliable and thus ensuring that judicial processes will be effective (A/71/298 [2016]), § 16).

Mass surveillance has been increasingly employed in the fight against terrorism, despite the fact that it has not proven to be effective (Butler 2017, 5, 17). Research into the NSA mass surveillance programme has found that even where evidence connected to terrorist activities was discovered through mass surveillance, this information had already been available to the

security services by means of other, traditional forms of investigation. Governments should therefore focus on collecting intelligence through means that are not only in accordance with human rights law, but also more effective. Security services need resources to carry out such targeted surveillance; judicial and parliamentary oversight should be strengthened to avoid abuse. Community engagement may also foster trust in authorities, including the law enforcement agencies, that creates an environment where intelligence is offered to the police.

The same is true for ethnic profiling or stop-and-search powers: research has confirmed that it is not effective to detect or prevent crime (Butler 2017, 33). When using it, the police usually targets more individuals from the specific “suspect ethnicity”, and fewer from the majority population or other minorities, making it a discriminatory practice that may have extremely negative effects on community trust in the police (OSCE 2014, 59). In contrast, when clear and transparent criteria to use stop-and-search powers were applied instead of ethnicity, coupled with internal and external overview, this has led to more effective results: there were fewer stops by the security services, with an increased number of detected offences and a significantly decreased number of the disproportionate targeting of members of minorities.

These and other examples demonstrate that human rights are not an obstacle for effective security measures, but they are the basis for security measures to be effective on the short-, mid- and long-term. Generally, a professional police, that understands human rights as basis and as objective for their work will be crucial in this regard (FRA 2013, 46, 54). Human rights contribute to effective policing by placing restrictions on police actions in line with the principles of legality, necessity and proportionality. Police acting in line with these principles will foster confidence in the State, strengthen the rule of law and contribute to effective criminal proceedings, ultimately culminating in a better security situation for all of us.

2.3. How can we provide human-rights and evidence-based answers to security issues and what role do media have in promoting and disseminating those answers? How do we better communicate the relevance of human rights, including in the security discourse, for each and every one of us?

Terrorist attacks and other security threats place States under a lot of pressure to react and not only make people safe, but also feel safe. Irrespective of the actual patterns, there is a general assumption that crime rates and the security situation are getting worse. Fear of crime and terror is by now regarded as a problem in itself, which is distinct from actual crime and victimisation. This sense of “a fearful, angry public” (Garland 2001, 10) has largely influenced the style and content of policymaking.

Policy makers often use “law and order” topics to gain public support. Government representatives have publicly and repeatedly argued that human rights constitute an obstacle when having to ensure security and that it is fine to restrict them (Butler 2017, 4). The public often seems to have accepted this discourse. This leads to a widely accepted repressive understanding of security that in fact does not lead to more security, but instead to more control and surveillance, which in fact is not effective in creating a better security situation.

Media plays a vital role in seeking and receiving information and ideas; it also significantly influences how crime, terrorism and other security risks are perceived by the population, as

well as the general attitude regarding how to deal with such challenges (Kunz/Singelstein 2016, 350). Consequently, it is of utmost importance how the discourse about security issues is framed. In the past decades, media have been increasingly commercialised and instead of focusing on their role as a source of information and their monitoring function for State actions, they (have to) compete for views and clicks on a competitive entertainment market. Consequently, crime, including terrorism, is usually portrayed as rising and a critical reflection of root causes and sustainable solutions to improve the overall situation is missing. Research has shown, that the consumption of private TV correlates with a more dramatic assessment of crime rates, a more exaggerated belief in the number of crimes committed by foreigners and the view that court sentences are too mild (Winzio et al. 2007).

The Internet facilitates access to and dissemination of information and ideas, but at the same time the search engines' algorithms dictate the content that one sees and interacts with (A/HRC/32/38 [2016]). Personalisation of information, having unquestionable advantages, may create so called 'filter bubbles' when users are shown content that is confirming their pre-existing beliefs (CoE 2017, 18). This phenomenon is challenging the very foundations of deliberative democracy in which diversity of ideas and free civic discourse is central for the functioning of every political community (Bozdag/van den Hoven 2015, 249 et seq.). Hate speech is also becoming a social and political issue that cannot be ignored, both by States and the media outlets themselves.

In order to positively contribute to a constructive discourse on human rights and security, an independent and pluralistic media landscape and critical journalists are essential. Unfortunately, in many countries across the globe, journalists are faced with violence and repression. States should therefore create an environment in which journalists can work safely and without undue interference, engage in awareness and capacity-building measures, monitor and report attacks against journalists, publicly condemn such acts, effectively investigate them, including with a focus on sexual and gender-based violence and discrimination and taking into consideration the particularities of online threats and harassment of women journalists (A/C.3/72/L.35/Rev.1, [2017], § 11). When countering hate speech, State responses should comply with international human rights obligations, as prohibitions and censorship will be counter-productive due to failing to address root causes of prejudices that are driving hate speech (Article 19, 2015).

Guaranteeing freedom of the media without interference, governments have to uphold a multi-centred media diversity through laws and policies (CoE 2011, 10). In the time of "fake news", a truly independent quality public broadcasting channel providing information and education free of commercials, but also free of State and/or political influence, can play a beneficial role to this end.

The media also has responsibilities, e.g. to counter hate speech (OSCE 2014, 52) and not to incite hatred and discrimination, but to follow the principles of ethical journalism (Hammarberg et al., 2011, 53). Quality journalism should be ensured through effective self-regulation on the basis of a code of ethics and including a functioning complaints mechanism, e.g. an Ombudsman or media council.

Universities, research and human rights organisations, as well as National Human Rights Institutions have a key role to play in providing evidence-based contributions to establishing

a discourse that portrays the complementarity between human rights and security. These evidence-based contributions should be taken into account by policy-makers.

Human rights education can contribute to addressing root causes of hate speech through supporting critical thinking, establishing awareness about one's own human rights and an understanding on what they mean in everyday life, as well as reflecting on what each and every one can do in making human rights a reality at the community level (OHCHR). Human rights education, e.g. through integration in the school curriculum, for public officials working in the judiciary, law enforcement, prosecutors' offices, as well as for the general public, can ultimately constitute an instrument in conflict prevention and a relevant factor in achieving security (Strohal 2004).

The human rights-based approach provides a very useful framework, not only for development, to promote participation, transparency and accountability, as well as empowerment.

2.4 Urbanisation and security: Which measures can cities develop to strengthen a human rights-based approach to urban security policy? How can we empower all people, in particular women, as rights holders?

The twenty-first century is characterised by urbanisation: today, more than half of the world's population lives in urban areas and by 2030 this number is expected to reach up to 60% (OHCHR). Often, rapid urbanisation is accompanied with more slums, precarious living conditions for many and increased inequality among the population. In Goal 11 of the Sustainable Development Goals (SDGs) governments therefore committed to "make cities and human settlements inclusive, safe, resilient and sustainable." For this endeavour, integrating human rights in local government actions is essential. Human rights cities have an important role to play in this respect. The concept is based on the idea that all inhabitants of a city should be familiar with human rights and what it means for a sustainable development of their local communities (Human Rights City Center 2016). While it is not easy to imagine a situation of human rights realisation if local authorities do not provide the necessary services, the topic of human rights at the local level often remains a distant reference frame (CoE 2014, §§ 8, 14). The UN HRC Advisory Council in a 2015 report underlined that there is a clear and strong connection between the local government and human rights (A/HRC/30/49 [2015], § 26). Local authorities are key regarding education, housing, health, environment, as well as law and order – all of which are closely intertwined with the enjoyment of one's human rights.

Consequently, the local level and community-oriented approaches also have a key role to play regarding the security situation and how security is actually perceived by the population. Community-oriented approaches to counter-terrorism for example emphasise involvement of the community-level, civil society, victims, women, as well as youth organisations in order to prevent terrorism (ODIHR 2016). To this end, community outreach has been identified as a relevant instrument when fighting exclusion and marginalisation that ultimately can constitute a root cause for violence (A/HRC/33/29 [2016], § 37). As part of this, access to basic services should be ensured in a non-discriminatory manner, equal participation in political processes and public life, as well as economic, social and cultural rights fostered, in line with the principle of equality and non-discrimination. The Human Rights City of Vienna has also

underlined civil society participation, human rights learning in the city, as well as human rights monitoring as relevant pillars (City of Vienna, §§ 2, 3, 5).

Trust building between communities and authorities, including security forces, social and educational services can constitute a good basis for preventing extremism (A/HRC/33/29 [2016], § 29). Such engagement, if not happening on the basis of an existing relationship or if largely conducted through security forces, may however also give rise to tensions. Consistent community engagement helps to alleviate such risks and can be beneficial also beyond countering terrorism. External factors to the community will however also need to be addressed by authorities.

While security forces, normally the police, are mostly leading prevention and counter-terrorism programmes and may have a constructive role, “the nature and extent of their involvement needs to be carefully devised, as it may be detrimental to relations with the community if the counter-terrorism agenda is mixed with the community cohesion agenda” (Ibid, §§ 32-33). Human rights concerns might arise when civil servants on community level need to share information about their clients. Similarly, terrorism prevention programmes should not constitute a cover for the police or intelligence agencies collecting information, which can lead to short term results, but ultimately not only risk to undermine trust in the authorities, but have more operational difficulties for law enforcement as a consequence, in turn leading to more intrusive measures employed by law enforcement, thus cumulating in vicious cycle of violence.

When engaging with communities, grass roots organisations and civil society, including religious and community leaders, it needs to be ensured that programmes do not result in any form of discrimination, stigmatisation, racial or religious profiling (A/HRC/33/29, § 31). This may result in further marginalisation. Thus, community engagement already at the programme design stage seems the best guarantee for programmes to address issues of concern and avoid negative consequences. Such needs-based approaches, including in relation to allocation of resources and funding, should equally make sure they are not only focused on the male community, leaving out women, but have a gender sensitive approach (Ibid, §§ 33, 35). Consultations with local women’s groups when setting up programmes, will support addressing these considerations.

The role of women in the security agenda is also emphasised by the Security Council’s landmark resolution 1325 on women, peace and security, which in the year 2000 for the first time recognised the impact of armed conflict on women, as well as their important role as agents of change to promote and maintain peace and security. Since then, numerous policies, national action plans, programmes and guidelines have been developed to ensure women’s participation, and gender mainstreaming in the peace and security agenda. The 2015 Global Study on UNSCR 1325 recommends Member States to “support localization initiatives to link global, national and local efforts and ensure the voices of the most affected and marginalized populations inform and shape relevant responses and monitoring of progress” (Coomaraswamy 2015, 250). Such localisation strategies promote local ownership and participation, which are both critical for effective implementation of the stipulated goals. At the same time it was emphasised, that any efforts to “securitise” and take advantage of women as instruments in military strategy should be avoided (Ibid, 15).

2.5 Digitalisation and security: Which groups are most at risk? What is the right policy mix to make use of the benefits of digitalisation while ensuring both security and respect for human rights? What is the role of new actors and the private sector in this regard?

According to the International Telecommunication Union, in 2017 almost half of the world's population had access to the Internet (ITU/UNESCO Broadband Commission 2017). This technology is currently transforming our everyday life on a scale, and with a rapidity, unparalleled in human history. Data-driven inquiry and decision-making are believed to be (more) insightful, objective and profitable. Taking into consideration the fact that the amount of data is doubling every two years, our future will arguably become more and more data-driven. An increasing reliance on digital technologies and data analytics by both State and non-State actors provokes questions over the implications of these phenomena for human rights as well as security.

Digitalisation and Big Data go hand in hand and bring both benefits and challenges. The digital economy absorbs all kinds of data – those related to our behaviour online and offline, the content of communication with accompanying metadata, data from smart grids, geolocalisation and numerous others. All of these data may potentially feed into profiling algorithms that are used for targeting groups and individuals both by State and non-State actors. Profiling is a technique used as much for marketing purposes as for credit scoring, predictive policing, or predicting political preferences. The latter has been exploited by Cambridge Analytica on the occasion of the recent presidential elections in the United States and, most likely, the Brexit referendum (The Guardian 2018). Big Data may also be applied to entire populations. In his recent report, the UN Special Rapporteur on the right to privacy pointed out that the Social Credit Project developed in China aims to score inter alia social and possibly political behaviour of citizens, which may potentially become an instrument of exercising political control (A/72/43103 (2017), § 104).

A group that merits special attention in relation to the digital developments are children and youth: On the one hand, they constitute a new generation of key users with digital knowledge to better understand and tackle arising human rights challenges. On the other hand, they often spend extensive time online and do not hesitate to post a lot of personal information about themselves, but also come into contact with harmful content, such as pornography and violence at an early age (CoE 2014). Responses to these developments and risks should consider the best interest of the child and constitute of different measures by State authorities, the education system, private companies, as well as parents. Children's awareness has to be strengthened through education, including on digital literacy. They should learn to identify, understand and deal with harmful content. Human rights education could focus on the right to freedom of expression, the right to privacy and the understanding that also other children have rights that are to be respected.

There are many more examples how Big Data interplays with human rights, as well as security. For instance, algorithms are used by the law enforcement for crime prevention while courts use algorithms in sentencing (State v. Loomis 2017). Digitalisation and advancements in data analytics for these purposes enhance the risk of ethnic, racial, religious and social profiling for the members of the most disadvantaged and marginalised groups. The practice of unlawful profiling has been frequently debated by various UN treaty bodies during the monitoring procedure (CERD 2017, § 16; HRC 2016, § 12). A coalition of civil society organisations has

called predictive policing tools “systemically biased against communities of color” (ACLU et al. 2016), leading to a reinforcement of bias. Before such products are employed on a large scale, a well-informed public debate, including relevant expert assessments, e.g. on statistical validity of new systems, should be conducted. Thorough assessment should continue while such systems are used. If employed, there must thus be transparency on the use vis-à-vis public officials, civil society and the general public and vendors must be subject to scrutiny about their products. At the same time, law enforcement should continue to build up community trust and reduce excessive use of force.

Data analytics may at the same time provide opportunities, e.g. through being able to better document human rights violations through social media (University of Essex 2018). It may potentially also contribute to achieving better food and water security and rely on processing climate, weather or environmental data for the purposes of disaster management (UN Global Pulse 2018). Promotion of the opportunities of Big Data for sustainable development and humanitarian action is the mission of “Global Pulse”, a flagship initiative of the United Nations Secretary General. One of the successful stories is the analysis of Twitter data for tackling food insecurity in Indonesia. In this project, through analysis of food price related tweets, it was concluded that it might be possible in the future to use social media as a “real time proxy for food-related economic indicators.” (UN Global Pulse 2014)

Challenges arising from digitalisation and Big Data have triggered an important debate over data protection and Internet governance with a need to better regulate the use of personal data. The European Union has recently adopted a revised regulation on the protection of personal data (General Data Protection Regulation which will become directly applicable in Member States on 25 May 2018) and proposed a new framework for the flow of non-personal data (document tabled in September 2017, COM(2017) 495 final). At the same time, the Council of Europe is modernising the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) and only recently adopted the Guidelines on the protection of individuals with regard to the processing of personal data in a world of Big Data. The African Union is aiming at consolidating data protection regimes across the continent and in 2014 adopted the Convention on Cyber Security and Personal Data Protection (AU 2014).

Nevertheless, as data protection regulations remain fragmented, there is a need for the development of common principles and legal standards. One of the standard-setting instruments is the UNESCO Recommendation on Science and Scientific Researchers that was revised in 2017 (UNESCO 2017).

Ensuring effective implementation of the newly existing legal standards might constitute another challenge that will need to be tackled, including through the court system. Lawmakers will need to make sure that legislative proposals are in line with the newly introduced standards, instead of undermining them by possibly creating a back door for the use of personal data (Noyb 2017). Finally, while in the meantime, according to the law in several countries, an individual in principle has the legal possibility to find out about which data an organisation holds about him/herself and what it is doing with it, in practice there are manifold challenges to exercise this right, notably due to the bureaucratic and complicated procedures (The Economist 2018). As regulations to ensure privacy and to protect one’s data will hopefully

become stronger and more effective in the future, it remains to be seen whether these obstacles will disappear in the near future.

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