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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Panel discussion on good governance in the promotion and protection of human rights during and after the coronavirus disease (COVID-19) pandemic

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 45/9, in which the Council requested the United Nations High Commissioner for Human Rights to organize, at its fiftieth session, a panel discussion on good governance in the promotion and protection of human rights during and after the coronavirus disease (COVID-19) pandemic, with a view to discuss the most efficient ways of using new technologies to overcome challenges and to ensure the full realization of human rights and the achievement of the Sustainable Development Goals. The present report contains a summary of the panel discussion that was held on 22 June 2022.



I. Introduction

1. In its resolution 45/9, the Human Rights Council requested the United Nations High Commissioner for Human Rights to organize, at its fiftieth session, a panel discussion on good governance in the promotion and protection of human rights during and after the coronavirus disease (COVID-19) pandemic, with a view to discuss the most efficient ways of using new technologies to overcome challenges and to ensure the full realization of human rights and the achievement of the Sustainable Development Goals. In the same resolution, the Council requested the High Commissioner to prepare a report on the panel discussion in the form of a summary and to present it to the Human Rights Council at its fifty-second session.
2. The panel discussion was aimed at identifying good practices for the efficient use of new technologies in the context of the COVID-19 pandemic to realize human rights and achieve the Sustainable Development Goals and strategies to address risks associated with them, as well as to recommend measures that could be envisaged by the Human Rights Council and other intergovernmental bodies or international organizations to support international cooperation and the efficient use of new technologies and to address challenges related to their use.
3. The panellists were: Jan Beagle, Director General of the International Development Law Organization; Buhm-Suk Baek, member of the Human Rights Council Advisory Committee and Rapporteur of the report on new and emerging digital technologies and human rights; Sebastián Smart Larrain, Head of the Los Ríos Region of the National Institute of Human Rights of Chile; and Ilia Siatitsa, Programme Director and Senior Legal Officer at Privacy International.
4. The United Nations Deputy High Commissioner for Human Rights made opening remarks. Presentations by speakers were followed by interactive discussions involving representatives of member and observer States, international organizations and non-governmental organizations. Panellists replied to questions and comments raised from the floor and made concluding remarks. The panellists made concluding remarks after the panel discussion. The Chair closed the meeting.
5. The panel was webcast and recorded.¹

II. Opening of the panel

6. The panel discussion took place on 22 June 2022 and the President of the Human Rights Council, Federico Villegas, opened the panel.
7. In her opening remarks, the Deputy High Commissioner said that the COVID-19 pandemic had compounded more entrenched political, social and economic crises, and changed lives in significant ways, compromising progress towards the achievement of the Sustainable Development Goals. The global response to the pandemic had relied heavily on technology and innovations, which were essential to reduce the impact of the pandemic, and to keep services running and the public informed and engaged in public life. She also highlighted a number of challenges posed by technology, namely the accelerated role of social media in spreading hate speech and disinformation and fake news; and the digital divide among and within countries. State emergency measures sometimes went beyond what was necessary and proportionate to safeguard public health, constraining civic space, repressing peaceful assembly and expression, and threatening dissenting voices, including through digital surveillance. The COVID-19 crisis had showed weak, or non-existent, privacy protection associated with personal data, as such data had been collected on a massive scale with no compensation or real agreement of the user. In some cases, the data collected had been used in criminal investigations. Moreover, artificial intelligence technology raised many concerns. In that regard, the introduction of highly invasive surveillance systems, such as the use of facial recognition technology to monitor compliance with quarantine measures,

¹ See <https://media.un.org/en/asset/k1m/k1mw5cx0nm>.

had raised concerns that the facial recognition technology could be used to profile certain groups based on their ethnicity, nationality, race or gender.

8. She underscored that the pandemic had exposed and exacerbated the pre-existing digital divide and noted that many countries still fell behind when it came to the digital transformation. Many countries still lacked the necessary legal, institutional and good governance frameworks that would govern the use of new technologies in line with human rights.

9. She recommended putting human rights at the heart of technological governance, based on the core principles underpinning the 2030 Agenda for Sustainable Development: equality and non-discrimination, participation, accountability and transparency. Moreover, the requirements of legality, legitimacy, necessity and proportionality had to be consistently applied. Victims of associated human rights violations and abuses should have access to effective judicial and non-judicial remedies. Any measures interfering with rights required a solid basis in a clear and publicly accessible data privacy and protection law, and that exceptional measures had to be phased out, once the crisis was over. States and businesses should systematically carry out human rights due diligence with digital technologies in order to prevent and mitigate adverse impacts.

10. In that regard, she highlighted two initiatives launched by the Secretary-General, in 2020, in response to the urgent need to regulate the use of artificial intelligence, namely the call to action for human rights and the Road Map for Digital Cooperation. In that context, the Office of the United Nations High Commissioner for Human Rights was developing United Nations system-wide guidance on the application of a human rights-based approach to the use of new technologies, complementary to the existing Guiding Principles on Business and Human Rights. The aim was to join efforts of United Nations human rights mechanisms aimed at addressing the challenges and potential risks of new technologies and at providing guidance to Member States and the private sector, to mitigate the harmful use of technologies in order to fully harness its enabling potential.

III. Summary of the proceedings

A. Contributions of panellists

11. Ms. Beagle noted that, in addition to its devastating human impact, COVID-19 had deepened inequalities, exacerbated fragilities and exposed major trust deficits in governance. While COVID-19 had laid bare the consequences of underinvestment in the rule of law and sustainable development, it had also forced States to innovate and explore alternative approaches. Governments had been forced to adapt and increasingly shift services online. COVID-19 had created an opportunity to make governance more people-centred and to put the advancement of human rights and the Sustainable Development Goals at the heart of our actions. To forge a more equitable future, it was necessary to harness the potential of new technologies.

12. Digital innovation was at the centre of the International Development Law Organization's Strategic Plan. The International Development Law Organization worked with institutions and civil society to promote new technologies to empower justice seekers, support good governance and transform institutions to make them work for people. Ms. Beagle highlighted the need to support targeted digital innovations that rendered institutions more efficient, effective and better able to meet the needs of communities. Moreover, it was necessary to support social platforms and digital technologies to empower people to access their rights. In addition, it was necessary to maximize the role that information and communication technologies could play in preventing and countering corruption. That was essential to ensure transparent governance that rebuilt trust in institutions.

13. The potential of new technologies was not limited to good governance, rather, digital innovations could act as a cross-cutting enabler for all 17 Sustainable Development Goals. Open data could drive more informed and responsive policies, helping ensure broader access in areas such as education, health and justice. Digital monitoring tools could assist in

predicting and planning for global threats and design data-driven peacebuilding programmes. Technologies were essential in promoting inclusive economic development and ensuring that no one was left behind.

14. On the reverse side, Ms. Beagle also addressed the risks that came with new technologies. The digital world was generally not regulated. As such, harnessing digital data for the global good was a key governance challenge. If not distributed and regulated in an equitable way, new technologies could further exacerbate the digital divide. For instance, women were 20 per cent less likely to own a smartphone and 20 per cent less likely to access the Internet than men. Similarly, rural and isolated communities were far less likely to have access to technologies and online platforms than those based in cities. The rule of law had a powerful role to play to realize an open, free and secure digital future for all, to ensure that the use of technologies was fair and equitable, including for vulnerable and marginalized populations. The rule of law had an important role to play in ensuring that the digital divide did not become the new face of gender inequality. The rule of law could encourage transparent processes for procuring new technologies. By promoting adherence to human rights, it helped to ensure that the policies regulating those technologies were non-discriminatory. The rule of law created the enabling environment to reap the rewards of technologies while reducing the risk that they would only benefit the few.

15. To conclude, Ms. Beagle recommended that the Human Rights Council should consider: placing the rule of law at the heart of its discussions and adopting a people-centred approach to digital innovation; sharing best practices in the use of new technologies to enhance access to justice, including by strengthening the capacity of justice officials; ensuring that the use of technology was regulated by clear legal and policy frameworks that respected human rights; promoting digital empowerment alongside digital innovation, with a focus on increasing the digital access and literacy of vulnerable populations; fostering multidisciplinary approaches to data governance; and encouraging the use of disaggregated data in policymaking.

16. Mr. Baek argued that new technologies had great potential to contribute to the protection and promotion of human rights, while also posing significant challenges to them. New technologies were expected to benefit everyone, including those in vulnerable situations, such as older persons, children, women and persons with disabilities. During the pandemic, it would have been impossible to balance physical isolation and maintain economic and social activities without new technologies. But disempowerment was also possible with new technologies. The pandemic had made people more dependent on the Internet, accelerating the digital divide between developed and developing countries and within societies. As the Internet became the primary method of communicating and gaining access to information, vulnerable populations lacking digital access were even more at risk of having their right to health and other human rights violated. Technology-fuelled empowerment could continue to be uneven, aggravating existing inequalities and creating new forms of vulnerability.

17. While new technologies made various public services more effective, cheaper and participatory and enhanced democratic citizenship by allowing transparent and democratic decision-making processes, they could also be used to curtail the rights to freedom of expression, access to information and freedom of peaceful assembly. Governments restricted rights by shutting down Internet services or selectively blocking access to online resources, censoring media outlets and persecuting people for expressing their opinions online.

18. Many State institutions had switched their activities to the virtual space. For example, the virtual courtroom upheld the right to access justice and a fair trial for the victims of crime. Telemedicine and telehealth had been used as health-care services to exchange information for diagnosing, treating and preventing disease. However, the switch had also created additional concerns regarding privacy, accountability and data protection and introduced a range of new human rights problems. Governance models that relied on user data were not easily reconciled with protecting individuals' right to privacy and minimizing the disclosure of personal data online.

19. Mr. Baek provided information on the findings contained in the report of the Human Rights Council Advisory Committee on possible impacts, opportunities and challenges of

new and emerging digital technologies with regard to the promotion and protection of human rights, in which the Committee recognized that technologies should be designed with a sound understanding of the international human rights framework. A holistic and balanced approach was necessary to further a common understanding of human rights implications on new technologies and reduce gaps in the existing human rights framework. The Committee highlighted that technologies themselves, not just their misuse, could affect human rights because they influenced policymaking and could restrict individual liberties. They could exercise a subtle but powerful influence on human societies. It was important to prevent intentional bias from being built into technologies and the consequent unintentional results. Mr. Baek also highlighted the long-term impact of the misuse of technologies, particularly if misused for social control purposes. The impact of technological systems on human rights could not be understood or addressed in isolation. Problems were not caused by one type of technology but by broad waves of innovation sweeping through many areas of human knowledge. Understanding such interrelatedness was essential to ensure that the benefits of new technologies were promoted while the potential negative impact on human rights was prevented or mitigated.

20. United Nations human rights mechanisms would benefit from creating a standard information-sharing tool so that the work of key stakeholders on the issue was better coordinated while building a comprehensive approach.

21. Mr. Smart Larrain expressed concerns regarding the use of new technologies. Even though their use was essential in controlling the spread of the pandemic, their use came with the cost of undermining human rights if not used under a legal framework that embraced human rights. Thus, the need to have a coherent regulation that would control any use of new technologies that would limit or hinder human rights. It was essential that any legislative or regulatory frameworks facilitated rather than undermined the enjoyment of human rights. In some cases, instead of preventing the potential negative consequences of new technologies, Governments had ended up putting other human rights at risk. Therefore, States should regulate the responsibility of technology companies in the framework of the Guiding Principles on Business and Human Rights, which established a “smart mix” of measures to regulate companies.

22. He gave examples of the regulatory framework that the Government of Chile had introduced and that made use of the Guiding Principles on Business and Human Rights. Those included the second national action plan on business and human rights, the neurorights bill, the strategy on artificial intelligence, a bill to create a data regulator, a bill to regulate digital platforms, and constitutional reform, which incorporated standards on “digital constitutionalism”. Those could be considered as a set of principles or values that studied the fundamental normative responses to the challenges posed by new digital technologies.

23. While he noted some shortcomings in those frameworks, like limited reference to human rights, insufficient consultation with civil society and potential risks to freedom of expression, he positively noted that the constitutional reform proposal advanced standards related to freedom of expression and information, establishing the right to universal access to digital connectivity and information and communications technology, as well as the right to participate in a digital space free of violence.

24. Beyond the incorporation of privacy and freedom of expression and information standards, the draft constitution recognized other elements of vital importance for digital constitutionalism, such as the neutrality of the network, the State’s obligation to overcome the gaps in access, use and participation in the digital space, its devices and infrastructure, as well as to define mechanisms to modernize its processes and organization, adjusting its functioning to the social, environmental and cultural conditions of each locality.

25. Those different processes should be seen as windows of opportunities to generate a coherent mechanism to regulate technology in Chile.

26. The Guiding Principles on Business and Human Rights should be part of that guidance because they provided a comprehensive and practical approach to address the risks involved.

27. Moreover, they provided a framework for addressing protection gaps that resulted from digital technologies.

28. States could rely on voluntary initiatives in cases in which the expected behaviour did not undermine the legitimacy of the overall normative framework. At the same time, they had to ensure policy coherence and protect people against harms involving technology companies.

29. Ms. Siatitsa reported that Governments had introduced a range of measures in response to the challenges posed by the pandemic, often relying on untested or poorly tested technologies, without necessary due diligence and effective enforcement of human rights obligations and responsibilities. That had led to short-sighted decision-making with little consideration of what was needed for an effective public health response and limited understanding of the impact on individuals and communities, in particular those in vulnerable positions.

30. There was no doubt that technological advancements could assist in responding to emergencies and improve people's lives and had been having an immense impact in the world. However, human rights had to always be protected in the process. There was an urgent need to reflect on what role data and technology played in the response to the pandemic and to rely on evidence-based audits and evaluation; how such policies and practices were regulated; and how they had influenced long-term shifts in policies and practices.

31. Privacy International had documented the exploitation of people's data and a rush to introduce various privacy-invasive technologies without assessing their effectiveness or impact. The private sector had been instrumental in instigating and pushing for many of those solutions, including data-intensive products, services and solutions. Examples included companies' involvement in developing contact tracing applications, without necessarily considering their impact on privacy and data protection; a data analytics company that offered health data management solutions without any transparency regarding what those entailed; and the sale of educational technology solutions for remote schooling, without the necessary impact assessment for children's rights.

32. The pandemic had provided the corporate sector with a fertile ground to sell new and old technological solutions and to create new partnerships with Governments. Although not entirely new, those partnerships had taken on a new form, in which parties were much more co-dependent and in which States built new systems and processes entirely reliant on the services of one company. Private companies were increasingly involved in performance of what was understood as State prerogative, while they got access to mass quantities of data, often including biometric data, such as facial images, that they could use in their own services. Some agreements not only threatened the privacy of millions of people but provided the gateway to the violation of all other rights.

33. Privacy International had developed a set of safeguards for States and companies to mitigate those risks. The 23 safeguards were based on the Guiding Principles on Business and Human Rights and were classified under six, core, long-lasting principles in international human rights law, namely: transparency; adequate procurement; legality, necessity and proportionality; accountability; oversight; and redress. The safeguards sought to put those principles into practice in the context of public-private partnerships.

34. The response to the pandemic had accelerated the introduction of surveillance technologies and the digitization and automation of the delivery of public services. In most cases, Governments relied on private companies for the technologies and increasingly for the delivery of such services. Such a trend had not been accompanied by appropriate human rights due diligence and safeguards, leading to the exclusion of those in the most vulnerable positions, arbitrary outcomes, lack of transparency and the exploitation of vast amounts of personal data by private companies. Ms. Siatitsa recommended that the Human Rights Council and its mechanisms should address those concerns by monitoring compliance with the international human rights framework, notably the Guiding Principles on Business and Human Rights; and by offering guidance to States and companies on how to apply such a framework when introducing new technologies.

B. Interactive discussion

35. During the plenary session, representatives of the following member and observer States, national human rights institutions and non-governmental organizations took the floor: Argentina, Armenia, Australia (also speaking on behalf of Canada and New Zealand), Bahrain, Bangladesh, Bolivia (Plurinational State of), Cambodia (speaking on behalf of the Association of Southeast Asian Nations), Cameroon, Cuba, Germany, India, Indonesia, Iran (Islamic Republic of), Latvia (also speaking on behalf of Denmark, Estonia, Finland, Iceland, Lithuania, Norway and Sweden), Malaysia, Maldives, Nepal, Poland (also speaking on behalf of Australia, Chile, Republic of Korea and South Africa), Sierra Leone and South Africa; the European Union, the Organization of American States and the United Nations Development Programme; and the Asian-Pacific Resource and Research Centre for Women, the International Commission of Jurists, the International Organization for the Right to Education and Freedom of Education, Penal Reform International and the Shaanxi Patriotic Volunteer Association.

36. The following delegations were unable to make statements owing to a lack of time: Cambodia, El Salvador, France, Iraq, Mauritania, Namibia, Paraguay, Senegal, Timor-Leste, Togo, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of) and Viet Nam; and United Nations Human Settlements Programme. The written statements received have been reflected in the present report.²

37. Speakers highlighted the unprecedented and unforeseen situation created by the pandemic. The world had gone through an exceptional health crisis testing national health systems and the pandemic had posed extraordinary challenges for which no State had been prepared. The pandemic had not only tested health and economic systems, but also the ability of public institutions in the inclusive delivery of services.

38. Several participants highlighted the specific situation of certain countries and territories. It was pointed out that the pandemic had a disproportionate effect on developing countries, in particular least developed countries, which had less capacity to access technological solutions to the pandemic, as well as on persons residing in conflict zones, in which health and essential services had already been devastated by hostilities and other crises.

39. Some delegations emphasized that the pandemic had shown that we lived in an unfair economic system that was characterized by the concentration of wealth in a few hands, often prioritizing profit over life. In a similar vein, several speakers stressed that the pandemic had further exacerbated global inequality. Some indicated that Governments from the South had to overcome additional distress forced upon them due to the unjust international economic order. The COVID-19 Vaccine Global Access (COVAX) Facility had failed to function as needed due to vaccine nationalism and hoarding by developed States.

40. Some delegations expressed concern over unilateral coercive measures, including blockades, which had in some cases not only been maintained, but also intensified during the pandemic. There were obstacles to overcoming the many challenges posed by the pandemic. In that regard, those delegations stated that the sanctions imposed on some States had prevented them from making payments, hampering their attempts to gain access to vaccines, as a result of which the COVAX Facility could not fulfil its commitments towards some developing States.

41. Participants emphasized that the pandemic had exacerbated pre-existing inequalities and disparities, notably in developing countries, such as the gender gap and the marginalization of women and girls and older persons. The digital divide was also along urban and rural lines, rich and poor, haves and have-nots. There was a need for disability, age and gender-responsive approaches to both online and offline public health campaigns.

42. Speakers were concerned about the human cost and suffering, severe disruption to societies and economies and the devastating impacts on the enjoyment of human rights and

² All statements are available at <https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/50/Pages/Statements.aspx?SessionId=59&MeetingDate=22/06/2022%2000:00:00>.

the realization of the Sustainable Development Goals. Participants highlighted that the pandemic had posed many challenges to the full realization of human rights, most importantly to the right to life and the right to health. They also emphasized that exceptional and temporary emergency measures had restricted individual freedoms, such as the freedom of movement and access to public services.

43. Speakers also pointed out that the pandemic had demonstrated how dependent the world was on information technologies. The pandemic had caused an unprecedented surge in technology use in new, creative ways, such as the use of contact-tracing applications, the digitalization of administrative procedures, remote work and distance learning. Online public services, including health care and education, remote work and televised religious services had become a new reality for many people. One speaker noted that technology had expedited the fastest-ever developed vaccine.

44. Several speakers noted that the pandemic had revealed the danger of misinformation and the speed at which it spread through social media and undermined the trust in Governments and in public services. Some delegations considered that collecting data allowed the spread of the pandemic to be tracked, but, at the same time, had led to breaches of the right to privacy. In some instances, new technologies had been used in illegal surveillance, limiting the rights of expression and opinion, as well as the right to freedom of peaceful assembly. Good governance and an efficient legal system were of the utmost importance in ensuring human rights and fighting disinformation. One delegation pointed to the risk of digital discrimination and harassment, including against women and girls, if new and emerging technologies were not well governed. Another delegation referred to the restrictions on the movement of people and the selective closure of business and government offices and their impact on the enjoyment of human rights.

45. One speaker pointed out that, among the emerging technologies, there were mass surveillance systems, biometric recognition, neurotechnological devices, as well as predictive systems of behaviour based on artificial intelligence and automated decision-making, mostly without there having been a debate about effective governance frameworks and the impact on people's rights. The same speaker pointed out that certain restrictions were permissible, to the extent that they were compatible with the international obligations of States and necessary in a democratic society and that they were formulated with due regard for their impact on the most vulnerable groups. Technological measures that implied restrictions on the rights of individuals had to comply with the "pro person" principles of proportionality and temporality and to have a legitimate purpose that strictly complied with public health objectives and comprehensive protection. They had to have a limited or timely framework of application and adequate transparency mechanisms, and they must not fall on all people indiscriminately. The application of high-risk technologies, such as remote biometric recognition mechanisms in public spaces, should be monitored in a special way.

46. New technologies, if used responsibly, could strengthen public institutions and increase their transparency or responsiveness so that ultimately they better served their citizens.

47. Speakers highlighted that transparent, responsible, accountable and participatory government underpinned the protection of human rights, especially when confronted with unprecedented crises such as the pandemic. They suggested that a commitment to effective and inclusive governance, enabled by strong institutions and efficient uses of new technology, would be integral in responding to future crises. More broadly, some delegations reaffirmed that good governance and human rights were mutually reinforcing and that without good governance, human rights could not be respected and protected in a sustainable manner; and that good governance was a foundation and one of the indispensable conditions for the full realization of human rights. Several delegations referred to the strengthening of good governance principles, namely the rule of law, transparency, accountability and participation, and the ability to respond to the needs of the population, to make optimal use of the human, material and financial resources. Speakers also highlighted the importance of fighting corruption.

48. Several participants emphasized that good governance was fundamental and new technologies were instrumental in overcoming challenges, ensuring the full realization of

human rights and the achievement of the Sustainable Development Goals. Good governance was even more important during public health emergencies, such as the pandemic.

49. Some speakers emphasized the importance of a “whole-of-government” and “whole-of-society” or “whole-of-community” approach in responding to the pandemic, highlighting the principles of transparency, responsibility and participation. Maximizing the advantages and minimizing the risks of new and emerging technologies called for a cross-sectoral and multi-stakeholder approach that respected human rights and addressed protection gaps.

50. One delegation recognized the importance of a free, open, inclusive, and interoperable Internet to enable individuals to enjoy their human rights, exercise their fundamental freedoms and hold government to account.

51. Some speakers recognized the important role of civil society, the active engagement of which had enhanced public trust in national measures to reach the goal of delivering services and thus rights to all.

52. Others emphasized that good governance in times of global health emergencies was essentially dependent on international cooperation and solidarity. One speaker observed that the pandemic had made the world more resilient, driving forward research and innovation in science and technology, *inter alia*, in sustaining delivery of public services.

53. Most delegations supported a human rights-based approach to digital technologies, to safe, inclusive and rights-based technological solutions. It was essential to ensure a human rights-based approach in the use and development of digital technologies and promote transparency and comprehensive human rights due diligence.

54. Several speakers emphasized that it was important that States continued to respect human rights and the rule of law and that restrictions on rights and freedoms remained necessary, proportionate and non-discriminatory. Several speakers emphasized the importance of safeguards. Others highlighted the need to promote economic, social and cultural rights in the period of economic recovery following the pandemic. Several participants emphasized the need to pay particular attention to the situation of the most vulnerable and marginalized sections of society.

55. Several delegations shared examples of the use of new technologies in the context of the pandemic, such as the digitalization of justice and welfare systems, virtual court hearings and paperless court case management systems, online payments of taxes and other government services that would not have been able to function during the pandemic without the introduction of the new technologies. Digital platforms were also used to ensure food supply in rural areas. Other examples included: the transfer of social safety net allowances and stipends through mobile banking; vaccination registration, data collection and certificate issuance; digital land management systems; contact tracing and self-assessment mobile applications; technology-driven vaccination programmes supporting real-time vaccination activities, including registration for vaccination; stocks and storage of vaccines; generation of digital certificates; tracking of the vaccination status of beneficiaries; scaling-up telemedicine services to enable online consultation services and electronic prescribing; online education; distribution of food grains and direct cash transfers to beneficiaries, including senior citizens, widows/widowers, persons with disabilities and other groups in vulnerable situations; promotion of e-commerce and the digital economy; e-government and e-services; decentralization; applications for transmission tracking; enforcement of legitimate physical activity restriction measures; social and financial assistance programmes; cloud storage space for e-education and health services; enhancement of cybersecurity; and provision of Internet services at subsidized rates to community schools and hospitals.

56. One speaker raised awareness of the impact on the justice sector, including law enforcement and prisons. In many places, new technologies had been introduced and rapidly expanded to facilitate virtual court hearings and paperless court case management systems, ultimately reducing prison populations, as well as to maintain family contact, provide meaningful activity and share information with persons in prison and their families.

57. Other delegations shared examples of international cooperation and solidarity in fighting the pandemic, such as through donations of medical supplies or financial donations. One delegation provided information about its commitment to equitable global access to and

rapid distribution of vaccines, therapeutics and diagnostics. It reported on its contribution to the Access to COVID-19 Tools (ACT) Accelerator and bilateral projects and to the COVAX Facility. The same delegation expressed its conviction that sustainable local and regional vaccines, therapeutics and diagnostics production was key in achieving global and equitable access and reported on its support for local production of vaccines by improving the regulatory, legal and logistical framework. Another delegation expressed its gratitude to its neighbours, development partners and friendly countries and the COVAX Facility for their support in containing the virus.

58. One speaker welcomed the negotiation of a “pandemic treaty” at the World Health Organization and considered that the treaty should provide for an obligation for States to put in place adequate and effective human rights safeguards when data and technology were used with the stated aim of responding to, or in preparation for, pandemics.

59. Others suggested that, to overcome difficulties associated with the transfer of technology, access to vaccines and treatment for COVID-19, it was indispensable to promote the local production of medicines, treatments, vaccines and other medical technologies. There was a need to adopt concrete measures on the transfer of technology and science and the creation of equal capacities for developing countries. Patents had become one of the most sensitive and important issues for access to vaccines and medicines.

60. Some speakers underscored the role of the international community in supporting developing countries, in particular least developed countries, including through the transfer of technology, in their efforts to build forward better, while aiming to promote good governance and achieve the Sustainable Development Goals in a timely manner.

61. Several speakers highlighted the digital divide and the need to overcome it, including through digital alphabetization. It was clear that inequalities in the face of digital technology could not be bridged simply because people or services were equipped. It was also necessary that the target populations were able to use that equipment, that users enjoyed protection against threats related to digital tools and, finally, that the rights and freedoms of individuals were respected and protected. They recommended greater international and regional collaboration, together with the provision of the means of implementation in bridging the digital divide and ensuring good governance.

62. Delegations asked the panellists several questions, for instance what could be done to safeguard human rights during the pandemic and afterwards; how States could reconcile the urgent need to provide public services with safeguarding privacy and security; how to address the risks of technological advances in supporting inclusive societies and how States could best address them; what role the Human Rights Council could play in promoting a human rights-based approach to digital governance; how to share concrete examples of how all stakeholders could cooperate to use technology effectively and to provide essential services for the protection of human rights; how the international community could work together to enable and encourage the implementation of good governance practices in developing countries, with a view to bolstering the resilience of the world’s most vulnerable populations as they emerged from the pandemic; how could new technologies be best utilized to strengthen good governance, at all levels, for the promotion and protection of human rights, and in support of equitable and inclusive post-pandemic recovery efforts; and what more could be done to ensure greater and more sustainable access to digital technologies so that more people might benefit. One delegation asked how member States of the Association of Southeast Asian Nations could integrate its regional initiatives into international efforts to further promote good governance. The President of the Human Rights Council asked the panellists what the Council could do to identify the positive aspects of new technologies, while safeguarding against their possible negative impacts.

C. Concluding remarks by panellists

63. Ms. Beagle highlighted that it was necessary to strike a balance between the use of new technologies and the need to ensure that they were not misused. It was essential to place the rule of law at the heart of all action, at both the global and national levels, and to adopt a people-centred approach to digital innovation. Inclusive governance, equal access to justice,

capacity-building, cooperation between Governments and civil society actors and compliance with human rights standards, with particular attention being paid to women and girls and vulnerable groups, were the way to achieve that balance. The acceleration of the implementation of Goal 16 of the Sustainable Development Goals served as an enabler for all other goals and provided a framework to ensure that new technologies protected human rights and promoted peace and sustainable development.

64. The Human Rights Council had a key role to play in sharing the challenges and good practices associated with the use of new technologies. The Council should emphasize the link between good governance, human rights and the rule of law, with a particular focus on those in the most vulnerable situations. Finally, Ms. Beagle stressed the need for member States to reach a consensus on how those technologies should be used as a force in the service of the global public good.

65. Mr. Baek recommended that policymakers build interoperability into their frameworks, so that new technologies had a positive impact on a global scale. Such a collaborative approach was critical to ensure resources for investing in infrastructure and to narrow the digital divide among nations.

66. Mr. Baek underscored the importance of balancing human rights opportunities and the risks associated with new technologies. An excessive focus on mitigating harm could hamper innovation. The United Nations should promote the positive effects of new technologies, notably in developing countries and in empowering vulnerable populations. While the misuse of personal information might raise significant concerns, being excluded from the use of new technologies could also deprive people, notably in developing countries, such as refugees and stateless persons, from accessing information or even their basic rights. A human rights-based approach would guarantee that all voices and all populations were included.

67. Mr. Smart Larrain highlighted that the protection of human rights was essential to safeguard against the risks associated with new technologies. There was a need for a global model that generated a coherent policy on human rights and new technologies. Such a model would reinforce the human rights obligations of States and the responsibilities of companies. A coherent global system was needed to regulate the use of new technologies at both the local and international levels.

68. Mr. Smart Larrain stressed the importance of strengthening human rights mechanisms to tackle these challenges. He added that new technologies were not only used in the context of fighting the pandemic, but also in dealing with other global challenges, such as climate change.

69. Ms. Siatitsa expressed concern about possible infringements of the right to privacy through new technologies, the exclusion of vulnerable groups when it came to the delivery of basic goods and services and the exploitation of personal data by private companies. She called upon human rights mechanisms to monitor national efforts and to ensure their compliance with the Guiding Principles on Business and Human Rights. The Human Rights Council should also call for transparency and adequate procurement procedures in collaboration with the private sector.

70. Ms. Siatitsa underscored the need to identify the negative and positive aspects of the use of new technologies. In that regard, the Human Rights Council enjoyed a unique position to identify those aspects and to bring together the different actors that had been instrumental in responding to the pandemic. The Council could identify safeguards that were essential for upholding human rights in the application of new technologies, notably in the context of public-private partnerships.

IV. Closing remarks

71. The President of the Human Rights Council, by way of closing the meeting, emphasized that the pandemic had forced the Council to come up with new modalities in using new technologies to enable States, civil society actors and non-governmental organizations to engage with the Council remotely. That was a tremendous achievement since

it provided actors and victims of human rights abuses based outside of Geneva with the opportunity to make their voices heard.

V. Conclusions and recommendations

72. The pandemic has created an unprecedented and unforeseen situation, which poses major challenges to good governance, public service delivery and the realization of human rights.

73. It has compounded more entrenched political, social and economic crises, and increased inequality among and within countries. It has had a disproportionate effect on developing countries, in particular least developed countries, as well as on persons residing in conflict zones.

74. The global response to the pandemic has relied heavily on technology and innovations, which are often untested or poorly tested, without necessary due diligence and effective enforcement of human rights safeguards. But there is still time to make human rights, as part of the rule of law, the basis of the regulatory response.

75. It is important to foster the positive role that new technologies can play, while safeguarding against the possible negative impacts and abuses of these technologies, which can be used by Governments, business enterprises and individuals to limit civic space, engage in mass surveillance, undermine the rights of vulnerable populations, collect data illegally and spread hate speech, disinformation and fake news, particularly through social media, infringing on a range of human rights, including the right to privacy, the right to freedom of opinion and expression, as well as the right of peaceful assembly.

76. The pandemic has revealed weak, or non-existent, privacy protections associated with personal data collection on a massive scale. In particular, the underregulated or unregulated use of artificial intelligence technology raises many concerns that should be addressed by the robust application of the Guiding Principles on Business and Human Rights.

77. There is an urgent need to regulate the use of artificial intelligence and the responsibility of technology companies in line with the Guiding Principles on Business and Human Rights. Human rights must be at the heart of technological governance.

78. States should apply a human rights-based approach to the use of new technologies, complementary to the existing Guiding Principles on Business and Human Rights.

79. States and businesses should systematically carry out human rights due diligence in respect of digital technologies to prevent and mitigate adverse impacts.

80. Victims of associated human rights violations and abuses should have access to effective judicial and non-judicial remedies.

81. Good governance is essential in ensuring that human rights are respected and protected, including in the development and use of new technologies. Human rights principles, an active civil society and an open Internet are important in ensuring trust in Governments.

82. New technologies have exposed and widened the digital divide, among and within countries, affecting foremost the most vulnerable groups and individuals, notably in developing countries. States must address the many forms of digital divide among and within countries and ensure equal access to information and technology to all, in particular those in the most vulnerable situations. States should strengthen international cooperation and solidarity in the fight against the pandemic and the recovery therefrom. The international community should provide the necessary support for developing countries, in particular the least developed countries, in their post-COVID recovery efforts.

83. There is a need to further explore the topic within the Human Rights Council and other human rights mechanisms, with a view to identify good practices and offer guidance to States and companies on how to apply a human rights framework when introducing new technologies.

Annex

List of participants

States members of the Human Rights Council

Argentina, Armenia, Bolivia (Plurinational State of), China, Cuba, Germany, India, Indonesia, Latvia (also on behalf of Denmark, Estonia, Finland, Iceland, Lithuania, Norway and Sweden),¹ Malaysia, Nepal, Poland (also on behalf of Australia, Chile, Republic of Korea and South Africa), United Arab Emirates and United States of America

States Members of the United Nations represented by observers

Australia (also on behalf of Canada and New Zealand), Bahrain, Bangladesh, Cambodia (on behalf of the Association of Southeast Asian Nations), Ethiopia, Iran (Islamic Republic of), Maldives, Sierra Leone and South Africa

United Nations

United Nations Development Programme

Intergovernmental organizations

European Union

Organization of American States

Non-governmental organizations in consultative status with the Economic and Social Council

Asian-Pacific Resource and Research Centre for Women, International Commission of Jurists, International Organization for the Right to Education and Freedom of Education, Penal Reform International and Shaanxi Patriotic Volunteer Association

¹ Observer of the Human Rights Council speaking on behalf of member and observer States.