EMRTD study on "Artificial Intelligence, Cultural Rights and the Right to Development": APC and Derechos Digitales joint submission

Call for input: https://www.ohchr.org/en/calls-for-input/2025/call-input-emrtd-study-artificial-intelligence-cultural-rights-and-right

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About the Association for Progressive Communications (APC)

The Association for Progressive Communications (APC)[1] is an international civil society organisation and a network of members dedicated to empowering and supporting people working for peace, human rights, development and protection of the environment, through the strategic use of information and communications technologies (ICTs). APC has 73 organisational members and 44 associates active in 74 countries, mostly in the Global South.

About Derechos Digitales

Derechos Digitales[2] is an independent non-profit Latin American organisation founded in 2005, whose mission is the defence, promotion and development of fundamental rights in digital environments in Latin America. It has ECOSOC status and has actively contributed to the UN and different UN thematic rapporteurs regarding the impact of digital technologies on human rights.

1 More information at https://www.apc.org/
2 More information at https://www.derechosdigitales.org/

Introduction

"The internet has reshaped power relations in the political, economic and cultural spheres. Approaching the web as a regime allows us to better understand its internal dynamics, the effects of which also extend beyond its borders."[3]

Where artificial intelligence (AI)[4] is transforming societies, economies and politics alongside reshaping the ways in which culture is created, promoted and experienced, it is also a reminder of how technology intersects with various rights that people access and exercise. Cultural rights, for example, are inseparable from civil, political, economic and social rights, and their suppression undermines the broader right to development. From the stories we tell, the languages we preserve, the music we make and the communities we visibilise, technology in general, and AI systems in particular, are becoming promoters as well as gatekeepers of culture and identity.[5]

We approach this debate from a human rights-based, feminist and intersectional perspective, recognising that societies and culture are never neutral. Women, LGBTQIA+ people, Indigenous communities and other marginalised groups have long been excluded from dominant cultural narratives. As a result, technology, including AI, risks automating these exclusions at scale. Inclusive cultural production, whether in stories, languages, artistic practices or collective knowledge systems, is both a right and a resource for equitable development. Yet the datasets on which AI is trained often steal, erase or appropriate this work, reproducing hierarchies and power dynamics that cause structural and societal barriers in accessing rights rather than dismantling them.

For decades, technology has been framed as a solution to social problems and a bridge between human rights, justice and communities. While digital tools have expanded access and amplified voices, they have also generated new forms of exclusion and harm for marginalised and underrepresented communities. As Morgan G. Ames observes in Charismatic Technology, each new innovation is promoted as a transformative breakthrough, creating what she terms a "charismatic" hold on societies.[6] Still, these technologies are frequently developed without regard for the cultural contexts in which they operate, and with little capacity to deliver meaningful or lasting change.

Considering AI as the charismatic technology of today, Stanford researchers Xiao Ge and Chunchen Xu say in their research study, How Culture Shapes What People Want from AI, "There is a gold rush underway to optimize every urban function, from education to healthcare to banking, but there's a serious lack of reflection and understanding of how culture shapes these conceptions."[7]

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3 https://lab.cccb.org/en/the-internet-regime/

4 In this contribution, we make broad use of the term artificial intelligence (AI), understanding that AI includes a wide range of technologies and methods that affect cultural rights in different ways according to their technical configuration and generative capabilities. We encourage the EMRTD to consider that the types of AI, namely narrow artificial intelligence, general artificial intelligence and super-intelligent artificial intelligence, as well as their related methods, whether machine learning, deep learning or natural language processing, have different scopes and impacts on cultural rights, both for the benefit and detriment of these rights.

5 "Ultimately, technology mirrors the problems we grapple with in our physical world and these are reflected in our digital systems." https://tacticaltech.org/news/insights/downhill/

6 https://morganya.org/research/Ames-charisma-aarhus.pdf

7 https://hai.stanford.edu/news/how-culture-shapes-what-people-want-ai

The rise of AI is not only transforming how societies function but also redefining the ways in which cultural life is expressed and governed. UNESCO's Recommendation on the Ethics of Artificial Intelligence emphasises that culture and creativity are central to human dignity, and that technological innovation must advance diversity rather than homogenise it.[8] But in practice, AI has been largely developed and deployed within economic and cultural frameworks shaped by a few powerful actors, mostly in the Global North. This concentration of technological power raises urgent and critical questions about cultural sovereignty, participation, and the collective right to development.

In many ways, the cultural implications of AI reflect a longstanding structural imbalance where communities who are the least represented in data systems are often the most impacted by their decisions. When datasets overwhelmingly reflect Western epistemologies, AI models inevitably reproduce them, privileging dominant languages, aesthetics, art and forms of knowledge. As the UN Special Rapporteur in the field of cultural rights, Alexandra Xanthaki, has noted, these "tools are not neutral," and marginalise local and Indigenous forms of expression.[9] This concern manifests daily through digital infrastructures that determine which languages are translated, whose art is recommended, or which histories are considered credible.

In the Global South, this dynamic has particularly deep implications. For example, as the 2025 UNESCO Global Report on Cultural Policies mentions, "Artificial intelligence systems pose new risks to cultural diversity and the visibility and circulation of diverse cultural expressions."[10] This technology depends on training data scraped from local cultural production, but rarely reinvests in the communities that generate it. As a result, there is a pattern of digital dispossession as cultures and communities become content and datasets. The promise of AI for "innovation", "inclusion" or "efficiency" is often offset by extractive data practices and unaccountable algorithmic governance.

However, AI is also changing the very notion of authorship and creativity. AI-generated cultural output is trained without consent to imitate human expression that has historically been rooted in experience and empathy. This raises critical questions about moral rights and intellectual ownership of cultural experiences. As the UN Secretary-General's report on the role of new technologies for the realisation of economic, social and cultural rights stresses, "Many algorithms tend to reinforce existing biases and prejudices, thereby exacerbating discrimination and social exclusion. Data-driven tools often encode human prejudice and biases, with a disproportionate impact on women and minority and vulnerable groups that are the subjects of those prejudices and biases."[11] The report emphasises that these technologies must be governed through frameworks that prioritise equality, non-discriminatory participation and accountability. The UNESCO Global Report on Cultural Policies suggests, "The digitization of cultural heritage must be accompanied by comprehensive policies to address governance, ethical risks and cultural data sovereignty."[12]

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8 https://www.unesco.org/en/articles/recommendation-ethics-artificial-intelligence and https://www.unesco.org/en/artificial-intelligence/recommendation-ethics?hub=32618

9 https://www.ohchr.org/en/documents/thematic-reports/a80278-report-special-rapporteur-field-cultural-rights-alexandra

10 https://www.unesco.org/en/culture/global-report/global-report-cultural-policies/chapter-2?hub=150011

11 https://docs.un.org/en/a/hrc/43/29

12 https://www.unesco.org/en/culture/global-report/global-report-cultural-policies/chapter-2?hub=150011

A feminist approach insists that power must be interrogated at every layer of this technological architecture, from who designs the algorithms, to who is represented in datasets, to who benefits economically from the deployment of these technologies. Feminist scholarship on AI ethics has consistently argued that systems designed without gendered, racial or cultural awareness risk amplifying precisely the hierarchies they claim to disrupt.[13] This is evident in how automated systems regulate online visibility for women, queer and racialised users who are more likely to face content removal, misclassification or harassment driven by biased moderation models. These dynamics mirror broader patriarchal and colonial logics, where visibility is both a privilege and a risk, and where cultural expression is scrutinised through algorithmic control.[14]

The 1986 Declaration on the Right to Development establishes that development is a process that should enable all peoples to participate, contribute to, and benefit from economic, social, cultural and political progress.[15] When AI systems mediate this participation, they effectively become instruments of governance. Their design and deployment therefore determine whose development is realised, and whose is deferred. Cultural rights, which have been considered secondary to economic or political priorities, are in fact the foundation upon which inclusive development rests.

This submission situates AI as both a product and a producer of culture. AI systems are built upon human creativity and labour, yet they also shape future cultural forms by influencing what and who is visible or considered valuable. This influence extends beyond cultural production into education, journalism, entertainment and public discourse, shaping the narratives through which societies understand themselves. In this sense, AI is not merely a technological innovation, but a cultural infrastructure that can either democratise or colonise the global cultural commons.

13 https://genderit.org/feminist-talk/resisting-extraction-and-centring-justice-feminist-futures-ai
14 https://genderit.org/feminist-talk/black-africans-right-opacity-and-societys-violent-will-know
15 https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-development

1. **In your opinion, what, if any, are the potential benefits of Artificial Intelligence (AI) for cultural rights in the context of the right to development? You may, for instance, consider AI's impact on development, cultural participation, cultural diversity (including language preservation, artistic creation and expression, access and participation in science, academic and scientific freedom, and the protection of moral and material rights of authors and creators).**

The potential of digital technologies, particularly AI, to advance economic, social and cultural rights and development has been a significant field of research and debate in recent decades. International human rights instruments underscore that for societies to widely benefit from these technologies, they must be designed and deployed according to core human rights principles, including equality and non-discrimination, participation, accountability, legality, legitimacy, necessity and proportionality, inclusion, accessibility, availability and affordability,[16] as well as privacy and transparency.[17]

AI's impact on cultural rights is far-reaching. Here we will delve into four potential benefits: language preservation, artistic creation and expression, access to cultural heritage, and participation in knowledge systems.

- **Language preservation:** When based on inclusive and diverse participation, as well as a human rights and intersectional perspective, AI tools can profoundly benefit language preservation and revitalisation efforts. According to UNESCO, half of the world's 7,000 languages are expected to go extinct by 2100.[18] The internet and AI have contributed to their decline by reinforcing the use of English and other dominant languages. For example, according to the Inter-American Commission on Human Rights (IACHR) Special Rapporteur for Freedom of Expression, in Latin America and the Caribbean less than 30% of internet content is in the local languages.[19]

  In this scenario, emerging technologies like AI also offer the potential for languages' renaissance by producing linguistic data and bringing local languages into the digital realm. For example, according to Indigenous language experts at the University of São Paulo, large language models (LLMs) could be used to document the world's threatened languages or mapping Indigenous phonetics[20] (concrete examples will be developed in the next question). In the same vein, the UN Special Rapporteur in the field of cultural rights has noted that AI tools can preserve and revitalise languages.[21] For instance, recording native speakers allows AI to generate audio content, facilitating transmission to new generations and upholding communities' right to participate in cultural life in their own languages. Thus, AI could help combat fears of exclusion and counter the disappearance of linguistic diversity from the digital space.

16 https://docs.un.org/en/A/HRC/43/29
17 https://documents.un.org/doc/undoc/gen/g21/249/21/pdf/g2124921.pdf?OpenElement
18 https://unesdoc.unesco.org/ark:/48223/pf0000187026
19 https://www.oas.org/es/cidh/expresion/informes/Inclusion_digital_esp.pdf
20 https://research.ibm.com/blog/AI-endangered-Indigenous-languages
21 https://docs.un.org/en/A/80/278

But realising these benefits requires strong safeguards against exploitation and recognition of communities as rights holders, not just data sources. In the absence of such measures, AI systems will continue to reinforce epistemic injustice and threaten cultural self-determination, core elements of the right to development.

- **Artistic creation and expression:** Without a doubt, AI has a direct impact on creative activity and work, the right to artistic freedom, the right to enjoy the arts, and the traditional protection of moral and material interests. As recognised by the United Nations Special Rapporteur on cultural rights, AI tools can support creative solutions and boost human imagination, as well as amplify the exercise of the right to participate in cultural life.[22] In fact, expressing oneself artistically using new and emerging technologies has never been so easy and accessible, as these offer and bring people closer to hundreds of great references for human creativity.[23] AI enables the continuous and immediate production of artistic pieces, representing both opportunities for the artistic ecosystem and risks for traditional creative processes.

  It is key to acknowledge that the intrinsic nature of human creativity, as both process and product, remains irreproducible by AI, a technology incapable of dreaming, imagination or genuine experimentation. AI systems do not originate artistic styles, but rather reconstitute existing ones, a function that exacerbates creators' concerns in an already challenging landscape where artistic work is often mediated by precarious or undignified conditions.[24] Creativity, as an indispensable part of human experience and of individual and shared identities, must be firmly safeguarded. This can happen only by adopting a human rights – specifically, a cultural rights – approach to the development and deployment of AI tools for artistic creation and expression. Moreover, the large technological corporations behind many AI creative tools are often driven primarily by economic profit rather than by a commitment to upholding cultural rights within the framework of the right to development.

- **Access to cultural heritage:** Heritage is central to understanding and safeguarding identities, concepts and meanings that shape culture.[25] Digital technologies like AI are opening new possibilities for cultural heritage, enabling individuals and communities to engage with it in dynamic and immersive ways that transcend physical and temporal limitations. As such, when AI tools are deployed respecting cultural diversity, promoting linguistic inclusivity, and prioritising underrepresented communities' perspectives, these can enhance the accessibility of cultural heritage.[26]

  Through a cultural rights-based approach, which builds upon the principles of universality and indivisibility of rights, non-discrimination, equality, participation, and respect for cultural diversity, technologies like AI can enable the retracing of historical narratives and the virtual reconstruction of dispersed collections and help preserve a community's collective memory

22 https://docs.un.org/en/A/80/278
23 https://www.derechosdigitales.org/recursos/el-viaje-de-la-creatividad-en-la-era-de-la-inteligencia-artificial/
24 Ibid.
25 https://www.derechosdigitales.org/wp-content/uploads/digitalizacion-patrimonio.pdf
26 https://docs.un.org/en/A/HRC/58/60

of specific objects and practices. AI and other digital tools can provide vital support to archaeologists, architects, curators and other practitioners in inventorying heritage and gaining remote access to sites that are inaccessible due to economic, ecological or security barriers.[27] Realising these benefits requires ensuring the meaningful participation of communities in both the design of these tools and the interpretation of the heritage they represent. This is especially critical for decisions regarding heritage datasets. Heritage communities must be recognised as key decision-making entities, and their moral and material interests must be safeguarded. Such an approach ensures that community narratives are made visible, helping to combat cultural homogenisation and amplify local traditions and minority cultures. Ultimately, while AI cannot replicate the physical and sensorial experience of engaging with cultural heritage, it is a critical gatekeeper to bring diverse forms of human expression and identity closer to people.

- **Participation in knowledge systems**: Finally, the internet and AI tools hold a potential benefit to facilitate access to documents and democratise access to knowledge.[28] According to the Access to Knowledge Coalition,[29] access to knowledge systems is not enjoyed equally across the world, and people find obstacles to learn, teach, research, create, preserve or seek to enjoy intellectual and cultural life. AI tools and digital technologies may offer possibilities for the creation and dissemination of knowledge and science. Examples of digital tools fostering access to knowledge have been seen before AI, such as the Internet Archive,[30] which aimed at free and open access to millions of scientific articles, building digital libraries for preservation, memory and, fundamentally, for providing access to information and knowledge. Crucially, these initiatives are primarily guided by a public-interest safeguard, in stark contrast to the profit-driven vision that characterises many AI tools developed by large technological corporations.

  Moreover, AI tools uncritically reproduce the data on which they are trained, and therefore their outputs can be partial, stereotypical and discriminatory. Since AI generates content at an unprecedented scale and pace, it is key to guarantee that it represents the diversity of cultural identities, heritages and knowledge.[31] Only in that way can AI tools and other digital technologies facilitate universal and equitable access to information, ideas and creations of human intellect to achieve social, educational, cultural, democratic and economic well-being.[32]

To realise these and other potential benefits of AI tools for cultural rights, it is essential to develop digital literacy. This requires giving visibility to AI initiatives driven by historically marginalised communities, which challenge the dominance of large technology companies and show us that it is essential to rethink and redesign technology from the perspective of the cultural wealth of the Global South, ensuring that tools are built in response to local knowledge and needs.[33]

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27 Ibid.
28 https://www.derechosdigitales.org/recursos/acceso-abierto-y-conocimiento-colaborativo/
29 https://www.a2k-coalition.org/
30 https://www.derechosdigitales.org/recursos/pronunciamiento-conjunto-en-apoyo-a-internet-archive/
31 https://docs.un.org/en/A/80/278
32 https://www.derechosdigitales.org/recursos/acceso-abierto-y-conocimiento-colaborativo/
33 https://www.derechosdigitales.org/wp-content/uploads/Glimpse_2024_ESP.pdf

2. Can you provide any specific real-life examples where AI has already enhanced the enjoyment of cultural rights when pursuing the right to development?

Based on the potential benefits addressed above, we present the following real-life examples in which AI initiatives driven by communities, academia and civil society have potentially enhanced the enjoyment of cultural rights, particularly through language preservation and access to knowledge.

However, the promises and potential of AI in these fields come at a high cost, for example, the development of data centres that exploit natural resources and violate the rights of Indigenous peoples to access their lands, while promising to help preserve their language,[34] as will be acknowledged later in this contribution:

- AI-powered writing assistant in Nheengatu, a lingua franca of the Amazon: IBM Research-Brazil and Indigenous language experts at the University of São Paulo are working with Indigenous people in Brazil to develop AI-powered writing tools to strengthen and promote languages at severe risk of extinction, like Nheengatu. Nheengatu traces its roots to Ancient Tupi, the language spoken by the Tupinambá people who dominated Brazil's east coast when the Portuguese arrived in the 16th century. Initially adopted by the colonists, Nheengatu was later banned as they consolidated power.[35]

  This potential AI tool emerged from earlier work by linguists from the University of São Paulo, which involved a community of speakers of Guarani Mbya, another Tupi-derived language. That initial project was paused due to an internal community debate on whether children should learn Guarani Mbya through traditional methods or digital tools. Mindful of this complex legacy, the researchers now centre Indigenous leadership, ensuring collaborators set the project's terms and sustainability.[36]

- AIkuaa, Guaraní community-led data voice creation: Guaraní is one of the official languages of Paraguay and one of the most widely spoken Indigenous languages in Latin America. The independent media outlet El Surti[37] is leading this initiative; it involves the creation of the SurtiLab-GTranscriptor open source application programming interface (API), which allows Guaraní audio recordings to be transcribed into text.[38] According to AIkuaa's creators, large language models (LLMs) have widened the digital divide, as predominantly oral languages such as Guaraní are severely underrepresented due to a lack of training data.

  Methodologically, this initiative works through *mingas* (community hackathons rooted in Latin American traditions of collective work) to fill Mozilla's Common Voice dataset[39] with audio

34 https://restofworld.org/2025/brazil-indigenous-group-sues-tiktok-data-center/
35 https://research.ibm.com/blog/AI-endangered-Indigenous-languages
36 https://www.ijcai.org/proceedings/2023/0685.pdf
37 https://elsurti.com/pt/aikuaa/
38 https://elsurti.com/wp-content/uploads/2025/09/Documentacion-Tecnica-Transcriptor-2.pdf
39 https://commonvoice.mozilla.org/en

recordings in Guaraní. The minga contributions are used to train AI models to understand spoken Guaraní. The overall objective is to build an open knowledge repository so that organisations and media can better respond to audiences who speak Guaraní.

- The te reo Māori language preservation and promotion initiative in New Zealand: te reo Māori gained official language status in Aotearoa New Zealand in 1987. Although the number of speakers declined steadily throughout the early 2000s, the language was still spoken by 4% of the population in 2018. In 2016, Te Hiku Media, a small non-profit radio station in New Zealand,[40] launched a competition asking people to record themselves reading a series of sentences designed to capture the full range of sounds in the te reo Māori language. As a result, over 300 hours of annotated audio of Māori speakers across the country were collected.[41]

  The Te Hiku team used machine learning to build language, speech recognition, speech synthesis and real-time pronunciation models, developing an automatic speech recognition (ASR) model to empower Māori to ensure their language has a place in the digital world. Beyond the challenge of collecting and managing this large volume of labelled Māori data, the Te Hiku team faced dozens of requests from Western corporations to purchase or obtain their data and ASR model. The creators have consistently refused these offers, advocating for the protection of Māori data sovereignty and the community's right to self-determination. Their position has ensured that all benefits derived from the project go directly back to the Māori people.[42]

- E.D.I.A.: This is a tool designed by the Argentine organisation Fundación Via Libre that allows anyone, without programming knowledge, to identify stereotypes in sentences and words. Its primary goal is to foster critical literacy around generative AI and collaboratively build a dataset for evaluating these technologies, thereby contributing to a more informed public. Furthermore, it empowers local communities to document their experiences with discrimination. This serves as a crucial first step in auditing automated language systems, allowing users to detect, characterise and define the specific types of bias and hate speech they wish to challenge.[43]

3. To what extent, if any, do existing digital divides deprive developing and least developed countries from reaping those benefits?

Access to the benefits of digital technologies, including AI, is dependent on communities' resources, cultural capital and digital literacy abilities. Even when we talk about free and open access to information and knowledge powered by AI tools, this requires knowledge on how to use them comprehensively. In Latin America, according to the Economic Commission for Latin America and the Caribbean (ECLAC), 40% of the region's population have basic computer skills; less than 30%

40 https://tehiku.nz/
41 https://www.wired.com/story/maori-language-tech/
42 https://www.technologyreview.com/2022/04/22/1050394/artificial-intelligence-for-the-people/
43 https://www.derechosdigitales.org/wp-content/uploads/Glimpse_2024_ESP.pdf

have spreadsheet skills; less than 25% know how to install new devices and software; and only 7% of people in all countries in the region reported having written a computer program using a programming language.[44] Similarly, in other Global South regions, digital divides persist, limiting the ability of certain groups, particularly those from historically marginalised communities, and those living in remote and rural areas, to use technology and AI tools in a meaningful way to enhance their access to cultural life and development.[45] Furthermore, with only 68% of the global population online as of 2024,[46] the potential benefits of AI for human expression and identity are clearly not equally accessible across the globe.

For example, the scarcity of online content in Indigenous languages widens the digital language gap for these populations. This gap not only reinforces marginalisation from technology benefits, but also heightens the risk of language loss, as previously discussed.

The 2016 edition of APC's flagship publication Global Information Society Watch (GISWatch)[47] investigates the representation of languages and cultural identities in multiple geographies, and finds:

1. **Nigeria – Language endangerment and digital exclusion**

   Nigeria has more than 500 languages, but internet access overwhelmingly favours English and the three dominant languages (Hausa, Igbo and Yoruba). Over 300 minority languages are spoken by just 7% of the population, and many remain undocumented or are near extinction. The Fantsuam Foundation documented how online publishing of minority languages in southern Kaduna was the first attempt to promote the cultural rights of these communities, aligning with Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Yet the lack of digitisation means most of these languages remain excluded from the digital sphere, limiting participation in cultural life.

2. **Peru – Mapa Sonoro (Sound Map) for Indigenous languages**

   Only 14% of the population speaks one of the 47 Indigenous languages of Peru, and these groups face systemic linguistic discrimination. The Mapa Sonoro (Sound Map) project was launched to give "audiobility" to these marginalised languages by recording and publishing phonetics online for educational purposes. While the project increased visibility, it also showed structural limits: only around 5,000 people accessed the site in a year, underlining the gap between online resources and actual cultural participation.

44 https://unesdoc.unesco.org/ark:/48223/pf0000387814
45 https://docs.un.org/en/A/80/278
46 https://www.context.news/digital-divides/opinion/how-can-latin-america-bridge-the-digital-divide
47 https://www.giswatch.org/2016-economic-social-and-cultural-rights-escrs-and-internet

3. Argentina – The Qom community and digital literacy

In Los Pumitas, Argentina, the Qom Indigenous community faces high illiteracy in Spanish, making digital access particularly challenging. Community e-literacy workshops sought to integrate them into online spaces, but participants noted that visibility alone is insufficient without sustainable support. As one elder, Oscar Talero, said: "The culture is here, in the territory, the language, our customs; we have shamans, healers, midwives in the community. We want to work with the state and they have to give us sustainability. If they do not, what we propose cannot be done and cannot be seen." This suggests how digital participation must be rooted in state responsibility and long-term sustainability.

For digital technologies to function as tools that foster informational pluralism and cultural diversity,[48] it is crucial to ensure the participation of linguistic minorities, as well as the availability of local content in digital environments. Addressing systemic inequalities is a prerequisite for achieving this goal. These structural disparities perpetuate a cycle of exclusion for Indigenous perspectives in AI. Social and economic inequality often manifests as a lack of internet access, which hinders the development of digital literacy and prevents meaningful participation in the technological ecosystem. This systemic barrier ultimately renders Indigenous communities, knowledge and voices invisible in the development of technology.[49]

On the other hand, digital divides can prevent communities from recognising the critical importance of data sovereignty, leaving them vulnerable to digital colonialism (a risk that will be discussed in questions 5 and 6). Under this dynamic, their cultural heritage is often extracted without consent to become training data for AI. Large technological corporations view cultural heritage data as mere inputs and from an economic profit point of view (as seen in the previously mentioned case of the te reo Māori language), violating collective moral rights and undermining cultural self-determination.[50]

Structural inequalities, inherent in the power dynamics between the Global North and South, can prevent communities in historically marginalised regions from accessing the benefits previously discussed. This is exacerbated by the fact that AI tools are largely owned and governed by a small number of actors from the Global North. Their languages, worldviews and economic interests shape system design, thereby reinforcing existing digital divides. When AI systems are trained primarily on dominant cultural data, they inevitably produce homogenised, biased and discriminatory outputs. As a result, the cultures, languages, knowledge and forms of expression from the Global South are consistently absent or misrepresented in AI-assisted or generated content.

48 https://www.apc.org/sites/default/files/APC_ESCR_Access_Juan%20Carlos%20Lara_September2015%20%281%29_0.pdf
49 https://unesdoc.unesco.org/ark:/48223/pf0000387814
50 https://docs.un.org/en/A/80/278

4. Can you provide any specific real-life examples involving the impacts of such digital divides on the enjoyment of cultural rights when pursuing the right to development?

Digital divides have broad implications for the enjoyment of cultural rights. According to the latest report by the IACHR's Special Rapporteur for Freedom of Expression on digital inclusion,[51] digital divides are fuelled by a lack of contextually and linguistically relevant content, alongside barriers of access, cost, connection quality and digital literacy. This is clearly illustrated in the misrepresentation of cultures.

According to research by the Chilean media outlet Vergara 240, Big Tech AI models are not developed or designed precisely to narrate cultural aspects of countries in the Global South. This was reflected in the experiment "How Artificial Intelligence Sees Us" carried out by journalism students at Diego Portales University in Chile, who over three months generated more than 2,000 images using the Dall-E tool to investigate AI's output perception of Chile and Latin America. The results were discouraging, as AI reproduced cultural biases, inequalities, prejudices and gender and racial stereotypes,[52] contributing to the mythification and fictionalisation of Chilean Indigenous communities.

As shown in this real-life example, mainstream AI tools amplify certain voices, aesthetics and narratives while silencing others, determining how culture is represented online and offline. This means that cultural narratives and aesthetics aligned with dominant, often Western norms, are prioritised, while expressions and identities from regions belonging to the Global South are underrepresented or, even worse, misrepresented. This is why participatory planning and design of technologies, diversity and plurality criteria, as well as leadership of communities are determining factors in advancing digital technologies that match socio-political or cultural conditions of Global South communities.[53]

5. What are the main risks posed by and drawbacks already identified of Artificial Intelligence, including, amongst others, generative AI, to cultural rights in pursuing the right to development?

a. While AI is frequently presented as a tool for progress, its asymmetries with these proposals are evident. For instance, the benefits of language preservation projects or digitisation efforts are often conditional, while the harms of bias, outdated dialects, disinformation and appropriation fall disproportionately on communities in the Global South.

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51 https://www.oas.org/en/iachr/expression/reports/Digital_inclusion_eng.pdf
52 https://vergara240.udp.cl/asi-nos-ve-la-inteligencia-artificial/
53 https://unesdoc.unesco.org/ark:/48223/pf0000387814

b. As Shahid, Elswah and Vashistha write, “common preprocessing techniques and language models, predominantly designed for data-rich English, fail to account for the linguistic complexity of low-resource languages. This leads to critical errors when moderating content in Tamil, Swahili, Arabic, and Quechua, which are morphologically richer than English.”[54]

c. Communities in Arabic-speaking countries face under-representation or misrepresentation due to weak dialectal support. Models misinterpret or omit local dialects, defaulting instead to modern standard Arabic, thus erasing critical varieties central to culture and identity.[55]

d. Studies show that large language models persistently associate Muslims with “violence”, even when “debiasing” steps are applied. For example, in tests using GPT-3, Muslim identity was compared to “terrorist” far more often than other religious identities.[56] This forms part of a pattern of algorithmic bias that undermines dignity, violates religious freedom, and contributes to stigmatisation.

e. Caste bias in India has been documented through examples such the following: when asked to complete sentences like “Don’t touch the ___,” large language models tend to fill in “Dalit”, showing casteist associations in outputs.[57]

f. These misrepresentations reproduce racist and derogatory perceptions, and undermine the cultural rights and dignity of entire communities.

Digital colonialism and data exploitation

g. Underrepresented and marginalised communities are then subject to what many describe as digital colonialism – an algorithmic empire where culture itself becomes a raw material, extracted, repackaged and redistributed without relevance, consent or benefit sharing.[58]

h. Just as colonial powers extract land and labour, AI systems extract languages, stories, art, labour, knowledge and symbols from communities, strip them of context, and reoffer them for global consumption.

i. This logic perpetuates historical inequities as culture is simulated for global consumption, while those who sustain it are made invisible, embedding power asymmetries into the very architecture of digital communication.

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54 https://arxiv.org/html/2501.13836v1
55 https://arxiv.org/abs/2409.11404
56 https://arxiv.org/abs/2101.05783
57 https://bardai.ai/2025/10/02/openai-is-big-in-india-its-models-are-steeped-in-caste-bias/
58 https://www.frontiersin.org/journals/communication/articles/10.3389/fcomm.2025.1604361/full

j. AI development relies on large datasets scraped from the internet, including cultural information that is often communal and sacred, belonging to communities rather than individuals. Yet AI systems absorb them without consent, turning cultural heritage into raw training data, undermining collective moral rights and cultural self-determination.

k. Regardless of mass extraction of this data, technology collectively fails in protection of these cultural markers of identity and those who represent them in digital spaces.

Appropriation of Indigenous art without consent

l. Adobe Stock was found to host AI-generated images falsely labelled as Indigenous-Australian, many of which bear culturally meaningless markings and designs. These were a result of training datasets curated without consultation or consent from the relevant Indigenous communities.[59]

m. One case involved AI producing "dot painting" style works despite the cultural group saying dot painting is not part of their tradition.[60]

n. This kind of generic cultural portrayal diminishes meaningful diversity and control over cultural identity.

o. This not only misrepresents cultural heritage but potentially erodes economic opportunities for real Indigenous artists.

How these risks relate specifically to the right to development and cultural rights

p. The harms associated with AI biases affect cultural self-determination. When external AI-driven systems define what culture looks like, and who may use or reproduce cultural forms, communities lose agency over their cultural narratives.

q. They exacerbate inequality and exclusion. Communities already marginalised by colonial, racial, economic and gendered divides are further disenfranchised when bias and appropriation threats target their identities, expressions and languages.

r. They threaten material rights and livelihoods. Misappropriation of art and imagery not only steals symbolic cultural capital but also undermines economic opportunities for creators who rely on cultural work.

59 https://nit.com.au/10-03-2025/16681/adobe-slammed-for-use-of-ai-generated-images-of-indigenous-people-and-artworks
60 https://www.abc.net.au/news/2025-08-23/calls-to-protect-indigenous-intellectual-property-from-ai-cultur/105680182

s. They undermine moral and material authorship rights. When AI replicates cultural works without consent or attribution, it violates moral rights, and when profit is made without benefit sharing, it violates material rights.

6. In addition to the above, please set out your views on the following potential AI risks and drawbacks in terms of how they relate to cultural rights:

a. Algorithmic bias

Algorithmic bias poses a significant risk to cultural rights because the systems that shape what is visible, heard and valued online are far from culturally neutral or equitable. When algorithms for recommendation, search, translation or content annotations are built on datasets and models reflecting predominantly Western, male-led, English-language norms, they embed a structural hierarchy of cultures and identities from the outset. In the Global South, for instance, studies reveal that machine translation systems consistently privilege dominant dialects over local variants. For example, Kenyan researchers found that translation tools like Google Translate use outdated Sheng and fail to recognise modern Shembeteng, while Tanzanian researchers found that the same tools prioritised Kenyan Sheng over Tanzanian variants of Swahili, leading to marginalisation of linguistic expressions central to identity and cultural agency.[61]

These biases are deeply patterned outcomes of how AI is designed and who designs it. Feminist researchers argue that algorithmic fairness frameworks often fail because they forgo questions of power, context and culture. As one research study, "Ameliorating Algorithmic Bias, or Why Explainable AI Needs Feminist Philosophy", puts it, technical "explainable AI"[62] is mistaken when it ignores stakeholder diversity in consultations and interpretive plurality.[63] Similarly, algorithmic models in the Global South have been shown to reproduce an outsider's gaze. A project in West Africa deploying generative AI for fashion design found that models trained on biased datasets marginalised local women's hair textures and body types, forcing creators to "over-describe" themselves to appear in representations. The authors noted that this imposed extra creative labour on marginalised creators, and reinforced aesthetics aligned with Western norms.[64] These distortions mean that when algorithms determine whose art is surfaced, whose language is translated, and whose culture is legitimised, they actively shape cultural participation and identity.

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61 https://arxiv.org/html/2501.13836v1

62 Explainable artificial intelligence (XAI) is a recent development aiming to make an AI system's decision processes less opaque and to expose its problematic biases.

63 https://ojs.lib.uwo.ca/index.php/fpq/article/view/14347

64 https://sites.google.com/view/algorithmic-awakening/project-page/bias-in-ai-for-fashion-design

By acting as invisible gatekeepers of culture, algorithmic systems translate data flows into cultural capital. Recommendation algorithms amplify aesthetics, languages and narratives that fit dominant norms, while pushing underrepresented cultural expressions to the margins. For example, the lack of representation of women in AI talent (women make up less than a quarter i.e. 22% of AI professionals globally, according to UNESCO) contributes to a cycle where development of AI lacks diverse cultural perspectives, reinforcing exclusion of women and other marginalised creators.[65] The invisibility of their perspectives in design means that algorithmic culture tends to privilege what already fits the dominant framework, thereby making "acceptable culture" narrower and less diverse.

This algorithmic bias leads to communities losing control over how they represent themselves through languages, storytelling traditions and artistic practices that may become invisible or misrepresented by systems that mediate cultural life. This means that cultural rights, which under international law include the right to participate in cultural life, to use one's own language and to enjoy cultural heritage, are compromised. Furthermore, when datasets omit local knowledge or visual traditions, and when models promote biased representations or entirely ignore minority languages, the continuity of cultural transmission is threatened. Over time, this can impact self-determination, meaningful participation in development, and equitable cultural representation.

b. Discrimination by automatic moderation and censorship

Automated moderation systems designed with Global North norms often fail to recognise context-specific expressions, dialects or cultural idioms, resulting in wrongful takedowns or silencing of legitimate speech. A study of content moderation pipelines in low-resource languages notes that "one-size-fits-all content moderation fails the Global South," with users in Bangladesh reporting that their posts were removed under Meta's rules although they did not violate them, leaving them de-platformed or economically impacted.[66]

In many cases, platforms like Meta rely heavily on AI systems to moderate content in languages such as Tamil, Swahili, Maghrebi Arabic or Quechua. Researchers found that models built for English fail to accommodate different linguistic structures or cultural references, leading to both "over-removal" of lawful content and "slow removal" of harmful content. In both cases, the outcomes undermined cultural participation and rights.[67]

Cultural and linguistic minorities also adopt evasive strategies like "algospeak"[68] in the Maghreb region to avoid takedowns.[69] These communities do not trust automated systems with their free speech and use code-switching and emojis simply because the standard moderation system cannot follow their cultural tactics.

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65 https://www.unesco.org/en/articles/unesco-convenes-global-dialogue-break-through-bias-ai-international-womens-day

66 https://news.cornell.edu/stories/2023/04/one-size-fits-all-content-moderation-fails-global-south

67 https://arxiv.org/abs/2501.13836

68 https://www.derechosdigitales.org/recursos/resistencia-digital-en-la-era-de-la-gobernanza-algoritmica-perspectivas-desde-la-experiencia-latinoamericana/

69 https://cdt.org/insights/content-moderation-in-the-global-south-a-comparative-study-of-four-low-resource-languages/

Internal Facebook documents revealed that the company knew its weaker content moderation in non-English-speaking countries left communities vulnerable to abuse by bad actors and authoritarian regimes.[70] In countries like India, recommendation systems and insufficient safeguards allowed hate speech and misinformation to proliferate, often targeting religious and linguistic minorities. This demonstrates how design choices in algorithms, made largely in Silicon Valley, shape the cultural and political realities of societies far beyond it.

These problems matter for the right to development because cultural rights, including freedom of expression in one's own language, participation in cultural life, and access to and sharing of heritage, are foundational to inclusive development. When AI platforms mis-moderate or mis-censor, communities lose visibility, voice and agency.

c. AI-generated disinformation

AI-generated disinformation poses a particularly critical threat to cultural rights and the right to development because it exploits identity, manipulates narratives, and undermines trust in communities whose cultural realities are already on the margins. Generative AI systems are now capable of fabricating highly persuasive text, images, videos and audio often at scale and low cost, magnifying the potential to distort cultural expression and erase collective memory. A scoping review of generative AI found that it "also facilitates the dissemination of disinformation by making it more targeted, personalised, and scalable. The combination of synthetic content and online platform recommendation algorithms amplifies the reach of false narratives – often beyond the control of traditional oversight mechanisms."[71]

In the Global South, the risks are magnified by gaps in media literacy, constrained institutional capacity, low financial resources for civil societies working on the issue, and rapid uptake of social media. In Africa, for instance, a study found that AI-enabled manipulation of social media during election cycles has been used to flood platforms with misleading content.[72] Similar instances were noted in India,[73] Pakistan[74] and parts of Southeast Asia.[75] This is about more than just false "facts", it is about reshaping how culture, identity and belonging are narrated, who is seen as part of the national cultural story, and whose voices are silenced.

The drive to weaponise "cheapfake" formats (lower-production deepfakes, manipulated stills, or synthetic audio in local languages) is especially concerning in regions where content moderation is weak. A comparative article found that platforms often overlook or under-detect such "cheapfakes" in Global South contexts. For example, in Bangladesh,

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70 https://www.washingtonpost.com/technology/2021/10/24/india-facebook-misinformation-hate-speech/

71 https://www.mdpi.com/2304-6775/13/3/33

72 https://www.dw.com/en/ai-disinformation-could-threaten-africas-elections/a-71698840

73 https://apnews.com/article/india-election-misinformation-meta-youtube-703a56c73f9341393f05400ea218b87d

74 https://digitalrightsfoundation.pk/ai-platform-profiteering-through-hate-and-the-feminist-reckoning-pakistan-urgently-needs/

75 https://techforgoodinstitute.org/blog/perspectives/algorithms-and-agendas-navigating-election-disinformation-and-misinformation-in-southeast-asia/

almost half of mis/disinformation in one election cycle came via cheapfakes rather than deepfakes.[76] Engineered narratives can drown out authentic content, which can result in reshaping public memory and perpetuating exclusion.

Moreover, detection tools and governance frameworks are far less effective in non-Western settings. A 2025 Neiman Lab study on "fake news detection" AI models showed that tools trained on Global North datasets produced significantly higher false negatives when applied to Global South content, meaning they failed to identify disinformation in those contexts.[77] As a result, communities become vulnerable to misinformation that masquerades as culturally relevant and factually correct.

To protect cultural rights, it is essential to recognise that disinformation is not just about facts, but about narratives of identity and belonging. Systems of governance must account for cultural specificity, Indigenous language media and participatory oversight. Without that, AI-generated disinformation becomes a tool of cultural erosion and development rollback.

d. AI systems going wrong

AI systems deployed in public service contexts often bring with them the promise of efficiency, transparency and development. However, these very narratives of "AI for development" can mask significant risks to cultural rights when the systems fail, malfunction or are ill-suited to their socio-cultural context. In Latin America, for instance, Derechos Digitales' research "Artificial Intelligence in the State: A Collective Study on Experiences and Risks to Human Rights" highlights how state-adopted algorithmic systems, even ones intended for public administration or service delivery, are often implemented without community consent, and with minimal accountability mechanisms.[78]

Such failures matter deeply for cultural rights. When an AI system miscategorises a cultural ceremony as non-compliant, or when facial recognition tools wrongly identify Indigenous people or minority-language speakers as suspicious, the cultural dignity of those communities is violated.

These "system going wrong" scenarios reflect deeper structural issues. Feminist and rights-based research emphasises that AI governance frameworks must interrogate the development ideologies underpinning these systems, including who gets framed as "beneficiary", whose data is used, whose culture is represented and whose is ignored. Derechos Digitales' feminist AI guide "Towards a Feminist Framework for AI Development" asserts that models built on narrow knowledge bases risk reproducing oppressive logics in the guise of innovation.[79]

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76 https://www.context.news/ai/opinion/cheap-fakes-are-a-blind-spot-for-platforms-in-the-global-south
77 https://www.niemanlab.org/2025/04/fake-news-detection-ai-is-more-likely-to-fail-in-the-global-south-new-study-shows/
78 https://ia.derechosdigitales.org/
79 https://www.derechosdigitales.org/en/recursos/feminist-reflections-for-the-development-of-artificial-intelligence/

The consequences for these mis-designed or mis-applied systems can erode trust in institutions, reduce cultural participation, misrepresent or invisibilise heritage, and exclude communities from service delivery because their cultural markers fall outside the system's logic. In short, when AI systems go wrong in public service contexts, the damage extends beyond error, and becomes a matter of cultural exclusion, invisibility and developmental disadvantage.

e. Appropriation of cultural production or dissemination

Generative tools trained on stolen content often replicate, repackage, and redistribute Indigenous or marginalised cultural works without consent or attribution, undermining both symbolic value and material rights. For example, a recent study on African musical heritage, "The Cannibalization of Culture: Generative AI and the Appropriation of Indigenous African Musical Works", describes how generative AI systems were trained on Indigenous African communities' ceremonial and cultural songs, and reproduced music for commercial platforms without benefit sharing, leading to eroding the economic and cultural agency of those communities.[80] The study notes, "As is often the case, well-resourced entities exploit valuable cultural elements commercially while relying on intellectual property law doctrines that may not adequately protect the rights and interests of Indigenous communities."

This extraction of cultural content is not limited to music. Research on "Rebranding empire in the age of generative AI" highlights how the majority of language model training datasets neglect Indigenous and minority epistemologies, while using them as raw material for global consumption. "This design trajectory has led [...] to a silent, ongoing act of cultural appropriation – where underrepresented knowledge systems are excluded by default rather than by explicit design," the research notes.[81] In turn, what appears as creative innovation can perpetuate "culture-as-input" rather than cultural collaboration, reducing communities to data providers rather than cultural agents.

From a feminist perspective, this appropriation leads to gendered and cultural exclusion. Women creators, Indigenous women, queer artists and minority language speakers are doubly impacted. Their creative labour is more likely to be integrated into generative systems without recognition, and cultural outputs shaped by dominant market logics sideline their contributions. The consequence is as much symbolic erasure as it is economic marginalisation.

f. Artistic, academic and scientific freedom and development

The advent of AI in research, education and the creative arts signals towards both promise and peril for cultural rights, in particular the freedoms of artistic expression,

80 https://journal.strathmore.edu/index.php/jipit/article/view/502/317
81 https://www.frontiersin.org/journals/communication/articles/10.3389/fcomm.2025.1604361/full

academic inquiry and scientific knowledge production. AI systems increasingly mediate how research is conducted, how curriculums are developed, and how scientific knowledge is validated or excluded. A study found that academic freedom is under growing threat when AI-driven research tools and institutional infrastructures steer agendas and outcomes, undermining scholars' autonomy and privileging Northern epistemologies.[82]

Moreover, creative fields are impacted when generative systems reproduce dominant cultural templates and marginalise local modes of knowledge. In a 2024 study, "Missing Melodies: AI Music Generation and its "Nearly" Complete Omission of the Global South", researchers found that almost 86% of the dataset hours were drawn from the Global North, with less than 15% representing music from the Global South, effectively narrowing the diversity of creative expression available in AI systems.[83] Such skewed datasets restrict opportunities for creators, scholars and communities from the Global South to fully participate in the cultural and scientific commons.

Academic freedom and research integrity face growing structural risks as AI tools become embedded in higher education systems. A systematic review of higher-education institutions in the Global South found that "most applications focus on improving technical efficiency and administrative functions, while pedagogical integration remains limited. Key barriers include inadequate infrastructure, unequal access to digital tools, limited faculty preparedness, and ethical considerations."[84]

Additionally, research from South Africa highlights the ethical tension of AI in open and distance education, where the automation of assessment tools threatens academic integrity and limits scholars' freedom to engage in culturally grounded, critical inquiry. It states, "Researchers have to ensure that AI technologies do not dictate research directions at the expense of academic rigour and freedom."[85]

g. Creative industries

The increased integration of generative AI tools directly impacts creative industries, including music,[86] film, design, literature and visual arts. According to the International Labour Organization (ILO), "Media and culture jobs account for 0.96 percent of total employment around the globe, which corresponds to 32.7 million jobs worldwide."[87] It establishes that generative AI influences not only production tasks but also decision-making and verification flows in media and culture sectors, raising concerns around job exposure, fair compensation and creative control. Given that in many geographies, creative workers navigate informal economies that tend to be characterised by precarious labour conditions and limited legal protections, AI may amplify vulnerabilities rather than reduce them.

82 https://www.frontiersin.org/journals/communication/articles/10.3389/fcomm.2025.1640244/full
83 https://arxiv.org/abs/2412.04100
84 https://www.frontiersin.org/journals/education/articles/10.3389/feduc.2025.1667884/abstract
85 https://www.researchgate.net/publication/394946664_Balancing_academic_freedom_and_research_integrity_through_virtue_ethics_in_the_use_of_AI_in_open_distance_education
86 https://restofworld.org/2025/ai-music-spotify-deezer-latin-america/
87 https://researchrepository.ilo.org/esploro/outputs/encyclopediaEntry/995644832802676#file-0

A study by the South African Cultural Observatory (SACO) found that while 70% of creative workers reported using AI tools, many expressed concern about lack of guardrails. The study mentions, "Creative workers [...] voice apprehensions about intellectual property rights, job displacement, and the preservation of authentic human creativity."[88] AI was experienced as a "rushed revolution" rather than a supported creative transition. The research suggests that while tools may be accessible, the ecosystems supporting respectful, culturally grounded usage are still underdeveloped.

h. Protection of authors' moral and material interests and cultural diversity, including linguistic diversity

The protection of authors' moral and material interests is an essential dimension of cultural rights, yet it is under intensifying pressure in the age of AI. As UNESCO's Recommendation on the Ethics of Artificial Intelligence makes clear, AI systems have "the potential to disrupt local and regional ethical standards and values," and "can also lead to an increased concentration of supply of cultural content, data, markets and income in the hands of only a few actors, with potential negative implications for the diversity and pluralism of languages, media, cultural expressions, participation and equality."[89] When generative AI models train on creative works without attribution, consent or fair compensation, they undermine both the moral rights (the right to be identified as author, to protect integrity of work) and material rights (the right to benefit economically) of creators. At the same time, there has been no thorough debate on the need to diversify and reform the list of copyright limitations and exceptions in order to benefit users that use protected works and AI for educational purposes or without a commercial interest.

The right to development is severely impacted when authors lose control over their cultural production, or when languages are excluded from digital infrastructures, or when creative economies are outsourced to algorithmic systems that favour dominant narratives or identities. Cultural rights, including rights of authorship and language, cannot be separated from economic, social, civil and political rights.

i. Climate change and cultural rights

As underscored by Karima Bennoune, the UN Special Rapporteur on cultural rights, safeguarding a liveable environment is fundamental to protecting the conditions that allow people to access, participate in, and contribute to cultural life. Climate change poses a direct and existential threat to the cultures and heritage of all human groups, particularly those of Indigenous and rural peoples whose identities are intrinsically tied to specific ecosystems.[90] Both culture and the environment are often place-based – a characteristic that shapes people's understanding of and relationship with environments

88 https://www.southafricanculturalobservatory.org.za/artificial-intelligence-cci-report
89 https://www.unesco.org/en/legal-affairs/recommendation-ethics-artificial-intelligence
90 https://docs.un.org/en/A/75/298

and ecosystems. As stated in the Special Rapporteur's report, this critical intersection has not been adequately addressed in current climate initiatives and must be recognised as both an international legal obligation and an urgent priority.

For instance, the proliferation of AI is driving an exponential demand for data computing and a consequent boom in mega data centres. These infrastructures consume vast amounts of water and electricity, posing serious risks to ecosystems tied to culture and cultural practices of people living in remote and rural areas. Often justified by economic progress, the expansion of these data centres has frequently occurred without transparency, public participation, or accountability for their climate and human rights impacts. A recent study estimates that global AI demand could require between 4.2 and 6.6 billion cubic metres of water by 2027.[91]

The environmental impact of AI development is now widely acknowledged.[92] However, its expansion often proceeds without proper assessment of its ecological footprint or safeguards for cultural rights. The tech corporations behind AI tools operate under a model of digital extractivism, exploiting the energy and natural resources of regions in the Global South to power their operations, particularly the intensive process of training AI models.[93] This comes at the direct expense of fragile ecosystems and the well-being of local communities, their cultures and their heritage.[94]

7. Do those risks and drawbacks disproportionately affect any particular category of individuals or groups of people when pursuing their right to development? Please explain below.

The risks posed by AI to the right to development are not evenly distributed, and are most evident for those who are already marginalised by intersecting identities of gender, race, indigeneity, language, religion and socioeconomic status. For example, women and girls in all their diversities in low-income countries experience multiple layers of exclusion when technology is developed without attention to gender and local cultural realities. According to UNESCO, 58% of young women and girls have experienced online harassment, including AI-generated deepfakes and hate speech, and only around 30% of AI professionals are women – a gap that is even larger in many Global South contexts.[95] These numbers suggest that women are significantly impacted, as not only are they underrepresented in the training of AI, but they face disproportionate harms from biased systems that ignore their realities.

91 https://arxiv.org/pdf/2304.03271
92 https://www.derechosdigitales.org/recursos/las-tecnologias-deben-mitigar-el-cambio-climatico-no-profundizarlo/
93 https://idec.org.br/pdf/idec_estudo-nao-somos-quintal-de-data-centers.pdf
94 https://www.derechosdigitales.org/recursos/emergencia-climatica-y-centros-de-datos-el-nuevo-extractivismo-de-las-big-tech/
95 https://www.unesco.org/en/articles/tackling-gender-bias-and-harms-artificial-intelligence-ai

Indigenous peoples and linguistic minorities are also especially vulnerable. AI systems trained on datasets lacking their languages, cultural contexts or epistemologies risk misrepresenting, invisibilising or appropriating their identities. As the United Nations Office at Geneva notes, Indigenous peoples often find themselves excluded from decision making around AI training and deployment, while AI infrastructure and data centres built near their lands exacerbate environmental and cultural harm. "Indigenous language, knowledge and culture are regularly included in AI datasets without consent, perpetuating patterns of appropriation and misrepresenting Indigenous Peoples," reinforcing damaging colonial legacies.[96] Because their cultural rights, including language, heritage practices and creative expression, are premised on community control, consent and intergenerational transmission, the failure of tech companies controlling AI infrastructure in recognising these principles effectively undermines their development rights.

When gender merges with other intersections like indigeneity or communities with marginalised languages, the impact is exacerbated. A transnational feminist audit of multimodal AI models[97] found significantly higher levels of gender bias in regions of the Global South, with cultural and racial markers amplifying exclusion.[98] For example, a woman belonging to an Indigenous community speaking a native language is more likely to experience that AI tools like translation systems, content recommendations and generative models either ignore or misrepresent her cultural practices, or leave her creative labour unacknowledged, or expose her to amplified online harassment.

The UNDP has flagged that gender bias in AI in development contexts risks widening opportunity gaps for women, especially in resource-poor settings where digital literacy, infrastructure and inclusion remain weak.[99]

The question, then, is "for whom are the risks of AI magnified?" rather than simply whether AI has risks and drawbacks for cultural rights. It is clear that those with intersecting marginalities navigating cultural heritage and online spaces face the most severe barriers.

8. What do you believe might be the long-term effects of AI use on cultural rights and, in that context, the future of the right to development, including cultural self-determination?

As much as there are opportunities, the commercialisation and the imposition of AI across various spheres risks reshaping the very basis of cultural rights and development in ways that may undermine cultural self-determination. As one investigation notes, generative AI stands to become "the most significant cross-cultural global disruptor since the invention of the World Wide Web."[100]

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96 https://www.ungeneva.org/en/news-media/news/2025/08/109399/indigenous-peoples-day-highlights-ais-risks-and-opportunities

97 "Multimodal AI refers to artificial intelligence systems that are able to process and integrate information from multiple types of input data, such as text, images, audio and video (referred to as modalities), to produce more comprehensive and nuanced outputs." https://www.edps.europa.eu/data-protection/technology-monitoring/techsonar/multimodal-artificial-intelligence_en#:~:text=Multimodal%20AI%20refers%20to%20artificial,more%20comprehensive%20and%20nuanced%20outputs

98 https://arxiv.org/abs/2309.04997

99 https://www.undp.org/eurasia/blog/ai-gender-bias-and-development

100 https://www.researchgate.net/publication/382120493_Generative_Artificial_Intelligence_Human_Agency_and_the_Future_of_Cultural_Heritage

When cultural heritage and creative expression are influenced by algorithmic systems that are developed outside local contexts, the agency of communities to shape their own narratives and share knowledge is diminished.

Over time, algorithmic systems may contribute to the standardisation of cultural expression. Large language models, trained on datasets produced predominantly by Western entities, threaten diversities in cultural voices and expression, and risk marginalising them further.[101] This means that as AI tools proliferate in education, heritage preservation, language tools and creative production, the dominant cultural templates embedded in those tools become normative, while other cultural forms are invisibilised. This leads to a creeping form of digital cultural colonialism, in which individuality, community knowledge, languages and creative practices are subsumed rather than empowered.

The long-term implication is that the conditions required for meaningful participation, access, identity expression and transmission of culture could shrink even further, making this exclusion an accepted norm rather than an oversight as it is presented today. The right to development, as understood as a process that enables people to participate in, contribute to, and benefit from economic, social, cultural and political progress, is affected if culture is influenced by systems that exclude or misrepresent communities. The fundamental right to cultural self-determination, meaning that communities decide their own cultural goals and pathways, is threatened when AI systems determine what is supported, visible or promoted.

The future of AI and cultural rights depends on governance, design and community-led interventions. UNESCO's Recommendation on the Ethics of Artificial Intelligence stresses that AI must be anchored in human rights, inclusivity, transparency and accountability.[102] If communities and cultural rights holders are engaged as co-creators of AI systems where they actively take part in deciding what is recorded, how it is used, and how benefits are shared, then AI may support cultural revitalisation rather than undermining it. But without this, future communities risk inheriting digital infrastructures that do not reflect their languages, values or histories, leading to reduction of development by being merged into dominant algorithmic cultures.

The long-term effects of AI on cultural rights and the right to development depend on whether cultural self-determination through consent and acknowledgment of agency is embedded into the architecture of AI systems, or whether AI becomes a tool that overshadows culture under globalised, technocratic norms.

101 https://arxiv.org/abs/2504.09861
102 https://www.unesco.org/en/legal-affairs/recommendation-ethics-artificial-intelligence

9. How can cultural rights be protected in the era of rapid AI development? You may, for example, consider prevention and mitigation.

With increased commercialisation of AI, the preservation of cultural rights requires a thoughtful approach that is informed by both prevention and mitigation strategies, rooted in human rights and feminist frameworks. At its core, prevention must involve integrating safeguarding measures into AI's life cycles, from design to implementation and release, so that communities retain agency over their cultural expressions, languages and heritage. UNESCO's Recommendation on the Ethics of Artificial Intelligence confirms this imperative, emphasising protection, promotion and respect of "human rights and fundamental freedoms, human dignity and equality, including gender equality; to safeguard the interests of present and future generations; to preserve the environment, biodiversity and ecosystems; and to respect cultural diversity in all stages of the AI system life cycle."[103]

One important preventive measure is inclusive and participatory design. Marginalised communities, including women, Indigenous peoples, LGBTQIA+ groups and diverse minority groups, should be directly involved in defining and designing AI systems, particularly where culture and language are implicated. Without this engagement, AI risks misrepresenting or erasing cultural diversity. For example, the UN Permanent Forum on Indigenous Issues also emphasises this inclusion, and recommends that "entities involved in developing, governing and applying artificial intelligence and digital technologies ensure the meaningful inclusion of Indigenous Peoples in the entities' processes for the benefit of Indigenous Peoples."[104]

Another key element is data governance and transparency, which means ensuring proper consent, fairness in datasets and resulting training of models, and clarity on how AI uses cultural materials and whether the communities have the option to opt out. It is crucial to build inclusive AI tools and systems that protect data authenticity, embed local governance, and ensure innovation doesn't come at the cost of cultural values, heritage and histories. Additionally, states must ensure that digital platforms that feed the AI algorithms with users' data provide complete and clear information on how the data will be used, as well as always provide the option to opt out from feeding the algorithms.[105]

Mitigation strategies complement prevention by addressing harm reduction, accountability and resilience. For instance, states and institutions should adopt regulatory frameworks that explicitly cover cultural rights in AI, like requiring impact assessments on cultural diversity, language inclusion and authors' moral interests. The Council of Europe's policy guidelines on AI and culture call for "safe, secure and trustworthy use of AI," and comprehensive governance to prevent algorithmic reinforcement of cultural biases.[106]

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103 https://www.unesco.org/en/legal-affairs/recommendation-ethics-artificial-intelligence
104 https://docs.un.org/en/E/2025/43
105 https://www.theguardian.com/technology/2024/nov/15/x-ai-gmail-meta-privacy-settings
106 https://rm.coe.int/cdcpp-2024-3-en-coe-policy-guidelines-on-ai-in-culture-creativity-heri/1680b45c67

Additionally, capacity building that supports digital literacy in marginalised communities and enables creators to understand and shape how AI affects production and dissemination of cultural expression is also a crucial step.[107] Ultimately, protecting cultural rights in the era of AI means re-centring cultural self-determination, not just by granting access, but also by enabling communities to define what cultural participation means, free from external algorithmic imposition.

10. Do you think regulating AI would be an effective way to protect cultural rights when pursuing the right to development?

11. If so, what kinds of AI uses or tools should be regulated, how, and by whom?

Anchoring AI regulation in a human rights framework enables prioritising the impact and harms of AI systems on people's economic, social, cultural, civil and political rights.[108] However, as acknowledged by the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki, the protection of cultural rights in collecting data for training AI models, the participation of communities in decisions about the digitalisation of their cultural heritage, the misrepresentation of cultures and algorithmic biases of IA systems, among other elements previously presented in this contribution, have not been the focus of scrutiny by legislators, even when data collection and AI's impact on culture is advancing at a rapid pace.[109]

Recent AI legislative initiatives around the world, such as the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, highlight the need for accountability, transparency and compliance with human rights law; others, like the Global Digital Compact and the European Union Artificial Intelligence Act, known as rights-based frameworks, contain considerations to tackle structural biases in the training of artificial intelligence and promote its ethical development; however, none of these regulatory agendas address cultural rights in particular, besides some considerations about copyright, an unequal field that does not represent the complexity and diversity of the forms of human expressions protected by cultural rights.[110]

Even if international law has yet to catch up with the challenges and benefits that AI poses for cultural rights, some non-binding instruments already have the potential to foster a cultural rights approach; for instance, UNESCO's Recommendation on the Ethics of Artificial Intelligence[111] does reinforce the importance of international cooperation to safeguard cultural diversity and human dignity in the context of emerging technologies.[112] On the other hand, the Continental Artificial

107 https://ich.unesco.org/en/events/webinar-on-artificial-intelligence-and-intangible-cultural-heritage-01012
108 https://www.ohchr.org/sites/default/files/documents/issues/civicspace/2025-02-state-regulation-key-ai-1-en.pdf
109 https://docs.un.org/en/A/80/278
110 https://www.derechosdigitales.org/wp-content/uploads/libro-acceso-a-la-cultura-y-derechos-de-autor.pdf
111 https://www.unesco.org/en/articles/recommendation-ethics-artificial-intelligence
112 https://docs.un.org/en/A/HRC/58/60

Intelligence Strategy of the African Union highlights the risk of appropriating and misrepresenting Indigenous knowledge when designing and deploying AI, and argues for inclusive and ethical AI respecting and protecting heritage, folklore, languages, film, music, theatre, literature, festivals, religions and spirituality.[113] The reach of this particular instrument will be delved into later in question 14.

12. Is self-regulation of technology companies that develop AI sufficient to protect cultural rights? If not, why not?

Relying solely on self-regulation by technology companies is not sufficient to protect cultural rights in the context of AI development. Voluntary programmes and corporate commitments, while useful as complements, lack the enforceability, accountability and legitimacy required to safeguard rights that are collective and intersectional in nature. As one article puts it, "the voluntary nature of self-regulatory initiatives cannot assure that the outlined principles will always be adhered to, particularly as they are often not subject to uniform enforcement standards."[114] It adds, "self-regulation alone could be insufficient and even undesirable for AI governance due to their inability to ensure inclusivity and representation of diverse stakeholders."

Technology companies that are often the sole beneficiaries of exposure and financial profits resulting from the appropriation and homogenising of information – cultural and otherwise – cannot be expected to genuinely act in the interest of the communities they claim to support. For example, many of these corporations have pledged to become "carbon neutral" or environmentally responsible by 2030 in response to criticisms of the AI boom, but their actions suggest a different story. The rapid expansion of large data centres demands enormous natural resource inputs, often in the form of billions of gallons of fresh water for cooling alone.[115] This comes at the cost of the sustainability and the future of the communities these resources are harvested from.

The power dynamics at play exacerbate the insufficiency of self-regulation. Technology companies operate within commercial logics that prioritise profitability, market expansion and platform dominance over human rights, based on objectives that may conflict with protecting cultural self determination or minority voices. Furthermore, self-regulatory approaches often fail to meaningfully engage those most impacted by AI, including marginalised languages, Indigenous communities, cultural producers, and others whose cultural rights are at risk.

Without binding obligations for meaningful participation, transparency and accountability, self-regulation risks institutionalising cultural marginalisation. Formal regulation from governments provides mechanisms for oversight and enforcement that are absent or weak in self-regulatory models.

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113 https://au.int/sites/default/files/documents/44004-doc-EN-_Continental_AI_Strategy_July_2024.pdf
114 https://academic.oup.com/policyandsociety/article/40/2/137/6509315
115 https://finance-commerce.com/2025/08/ai-data-centers-water-use/

Protecting cultural rights from AI-driven harms requires enforceable frameworks, independent oversight, meaningful participation of rights holders, and legal mechanisms that address power imbalance. Without these structural safeguards, self-regulation remains inadequate and insufficient to ensure that the cultural rights of communities, particularly in the Global South and among marginalised groups, are respected and realised.

13. Do you envisage any disadvantages to the protection of cultural rights and the right to development if binding AI regulations were in place?

Imposing binding AI regulations may seem like a preferred approach in contrast with self-regulation to protect cultural rights and the right to development, but it is also accompanied by risks and potential disadvantages. One key concern is over-regulation leading to stifled freedom of expression, and lack of agency of communities over content about their cultural heritage and identity. In addition, given the comprehensive processes involved in policy making, by the time an AI policy is passed it often risks being outdated, creating a kind of legal inertia where regulatory measures no longer reflect the dynamic pace of technological innovation.

Additionally, binding regulations grounded in Global North-centric models risk reinforcing cultural and technological dependency rather than reducing it. If Global South regulations require compliance with "global standards" developed in and relevant to the Global North, local cultural production and preservation, especially from marginalised and Indigenous groups, may be forced into frameworks that do not recognise the lived realities of the communities being considered. This can inadvertently reproduce the very asymmetries that regulations should seek to avoid. As one author argues, "the Global South lacks a proportional voice and presence in the venues that debate the path forward on AI governance."[116] In addition, mandating compliance with binding legislation informed by a lack of understanding of local realities and unequal power dynamics may favour large multinationals that can manage regulatory costs owing to their revenue in billions of dollars, while smaller, community-led innovators and creators may be excluded.

Another disadvantage is the potential chilling effect on freedom of expression, as regulatory definitions may codify what is acceptable and what is not. Regulations intended for transparency and accountability may also translate into standardised and sanitised forms of cultural production, which would limit the diversity of expression.

While binding AI regulation can enforce processes of accountability and rights-based protections, it must be designed in a way that avoids harming other human rights, including freedom of expression, privacy, cultural rights and development, and must not reinforce societal inequalities.

116 https://citap.pubpub.org/pub/6iqhwg55/release/2

14. Is the current institutional framework in your country equipped to deal with the new AI challenges to cultural rights? If not, what are some of its blind spots or shortcomings?

Institutional frameworks in many countries remain poorly equipped to address the unique challenges that AI poses to cultural rights. In Latin American countries, the frameworks struggle to manage the risks that AI presents to economic, social, cultural, civil and political rights. As a result, cultural rights have been sidelined in the region's AI systems design and deployment.

Meanwhile, in much of Africa, despite growing attention to AI, very few nations have comprehensive regulatory systems. A review found that 98% of African countries still lack dedicated AI legislation, relying instead on general data protection laws that do not fully address automated decision making.[117] In African countries like Uganda, Kenya, Nigeria and others, data protection laws exist, yet these frameworks are still rooted in older privacy regimes and lack clear provisions for algorithmic accountability, transparency or cultural impact evaluations.[118]

Asian institutional approaches also show similar blind spots. Many countries have nascent AI policy frameworks, but regulations remains patchy, and often fail to embed cultural values or robust rights-based safeguards. As the Institute for Global Policy suggests, governance capacity is weak, public AI literacy is limited, and regulators lack the language, cultural or ethical expertise to fully assess impact on marginalised communities.[119]

In Latin America, the shortcomings that have been pointed out in Derechos Digitales' research[120] include, first, the inadequacy or obsolescence of regulatory frameworks on personal data protection and access to information to respond to AI tools' opacity, as well as the absence of mechanisms to question their results, biases, misrepresentations and exclusions.

Second, AI systems are being adopted without communities' participation and without a human rights framework to guide their entire data life cycle. Regardless of the AI's type or promised benefits, institutional frameworks in the region are failing to ensure accountability for deploying these tools, which directly impact the exercise of rights in critical fields such as cultural rights.

Third, current frameworks fail to incorporate human rights impact assessments for weighing AI risks and benefits, nor do they include mechanisms to prevent harm to human rights and the environment. The institutional framework shortcomings shown are exacerbated by several interconnected factors. These include pervasive social inequalities within the region, persistent delays in closing the digital divide, and the significant influence of Big Tech, which has successfully lobbied to limit its obligations and responsibilities under emerging AI regulations.

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117 https://www.ictworks.org/wp-content/uploads/2024/03/AI-Governance-in-Africa.pdf

118 https://genderit.org/feminist-talk/another-false-dawn-africa-deconstructing-ai-development-narrative and https://cipit.strathmore.edu/ai-governance-landscape-in-the-east-african-region/

119 https://institute.global/insights/tech-and-digitalisation/how-leaders-in-the-global-south-can-devise-ai-regulation-that-enables-innovation#the-challenges-facing-effective-ai-regulation-in-the-global-south

120 https://ia.derechosdigitales.org/

While progress is underway, existing frameworks in most geographies often lack cultural sensitivity in their AI regulation. They are not yet well resourced or structured to address harms to languages, traditions and collective identity – a critical blindspot that undermines the protection of cultural rights.

15. Are regional agreements equipped to deal with the new AI challenges to cultural rights that underpin or are motivated by the right to development? If not, in what ways do they fall short?

According to the OECD.AI Policy Navigator,[121] there is a growing body of international AI policies, frameworks and regulations from leading organisations worldwide. These include the African Union,[122] the Association of Southeast Asian Nations,[123] the European Union,[124] the Global Partnership on Artificial Intelligence,[125] the G7,[126] the Inter-American Development Bank,[127] the Organisation for Economic Co-operation and Development,[128] UNESCO[129] and BRICS,[130] which guide states in different regions in managing AI's risks and opportunities by adapting laws, creating new rules, and developing national strategies. However, not all these frameworks address cultural rights or hold a rights-based approach.

Here we will delve into the BRICS AI governance declaration, the Continental Artificial Intelligence Strategy of the African Union, and the Inter-American Guidelines on Data Governance and AI of the Organization of American States (OAS). These are international and regional reaching agreements that contain valuable considerations to address AI challenges to cultural rights.

The BRICS AI governance declaration has been acknowledged in the Report of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises"[131] as a regional cooperation initiative toward rights-respecting AI systems. Among the main principles of the BRICS AI framework is inclusive AI development, which emphasises the importance of respecting linguistic, cultural, racial, geographical and demographic diversity in AI systems; "this includes international cooperation for comprehensive, multilingual dataset training and local AI talent development."[132] According to the BRICS AI governance declaration, it is key to address risks related to misappropriation and misrepresentation of knowledge, heritage and cultural values in AI datasets and models. The framework calls for robust "bias identification and mitigation

121 https://oecd.ai/en/dashboards/international
122 https://oecd.ai/en/dashboards/international/african-union
123 https://oecd.ai/en/dashboards/international/association-of-southeast-asian-nations
124 https://oecd.ai/en/dashboards/international/european-union
125 https://oecd.ai/en/dashboards/international/the-global-partnership-on-artificial-intelligence
126 https://oecd.ai/en/dashboards/international/g7
127 https://oecd.ai/en/dashboards/international/inter-american-development-bank
128 https://oecd.ai/en/dashboards/international/organisation-for-economic-co-operation-and-development
129 https://oecd.ai/en/dashboards/international/the-united-nations-educational-scientific-and-cultural-organization
130 https://digital.nemko.com/news/brics-ai-governance-declaration-2025
131 https://docs.un.org/en/A/HRC/59/53
132 http://brics.br/en/documents/presidency-documents/250706_brics_ggai_declarationfinal.pdf/@@download/file

tools, independent audit mechanisms, and inclusive AI development that respects diverse cultural, linguistic, and demographic representation in datasets and models."[133]

The guiding principles of the Continental Artificial Intelligence Strategy of the African Union include three which are key to protect cultural rights in the production, development, use and assessment of AI systems in Africa. The first, "local first", prioritises nurturing local talent and ecosystems to ensure that AI serves the continent's public interest and needs and, crucially, preserves its cultural values and customs. The second principle, "inclusion and diversity", ensures that AI is developed and used in a non-discriminatory way that leaves no one behind. It requires respect for the full diversity of African peoples, cultures and languages, explicitly forbidding discrimination. The third, "ethics and transparency", guides member states toward a responsible AI framework, specifically aimed at avoiding pitfalls like bias, widening inequalities, the marginalisation of vulnerable groups, and the loss of cultural identity.[134]

Finally, among its key themes, the Inter-American Guidelines on Data Governance and AI of the OAS recognises the importance of promoting, designing and implementing data and AI initiatives that incorporate an inclusive and differentiated approach from the early stages of systems design, valuing and strengthening the region's cultural diversity and considering communities and groups that may be more vulnerable.[135] This regional instrument also promotes research to build AI models in the region's primary languages, facilitating culturally and linguistically appropriate solutions to address communities' needs.

16. Which do you think would be more effective – a binding global treaty on AI regulation and human rights or domestic regulation on the same issue?

17. What are the potential barriers to developing and implementing a binding global treaty on AI regulation and human rights?

A binding global treaty on AI regulation and human rights can face many potential challenges and barriers. Derechos Digitales' research about AI regulatory sandboxes in Latin America and Europe[136] highlights that regulating digital technologies like artificial intelligence is a formidable challenge for any long-term legislation or public policy. This is due to AI's global scale, inherent unpredictability and dynamic nature. The regulatory challenges are diverse, ranging from ontological legal questions, such as defining AI within a legal framework and determining which of its functions necessitate new or revised laws,[137] to operational issues like jurisdictional enforcement. Furthermore, the debate raises concerns about representativeness, as AI companies are actors that most often have equal or greater regulatory and market influence that transcends jurisdictions and borders. Additionally,

133 Ibid.
134 https://au.int/sites/default/files/documents/44004-doc-EN-_Continental_AI_Strategy_July_2024.pdf
135 https://www.oas.org/ext/DesktopModules/MVC/OASDnnModules/Views/Item/Download.aspx?type=1&id=1080&lang=1
136 https://www.derechosdigitales.org/wp-content/uploads/2025/09/Sandboxes_V2.pdf
137 https://docs.un.org/en/A/HRC/59/53

regulatory discussions have not sufficiently incorporated the perspectives and different contexts of states in the Global South, which face AI-related risks and impacts that are different to those faced the Global North.[138]

International legally binding instruments are already emerging, such as the Council of Europe's Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law. This Convention aims to align the entire life cycle of AI systems with the principles of human rights, democracy and the rule of law, applying directly to public authorities and private actors acting on their behalf. However, a significant protection gap arises as signatories retain the discretion to decide whether, and to what extent, the Convention's measures apply to private actors in other contexts. Furthermore, exemptions for national security and defence, among others, raise additional concerns about accountability, particularly in high-risk situations. The challenges this instrument has encountered need to be addressed in future international regulatory efforts.[139]

However, AI operates without borders, which brings challenges and regulatory opportunities that require international cooperation to protect human rights, as highlighted in the Global Digital Compact.[140] In this vein, according to the UN Working Group on the issue of human rights and transnational corporations and other business enterprises,[141] globally, there are over a thousand AI-related standards, and over 50 AI governance initiatives based on ethics, responsibility or safety principles; these aim at applying the framework of international human rights law to the public and private sector deployment of AI systems by states and businesses. However, the development of AI governance frameworks has thus far largely failed to incorporate civil society in a meaningful way. This exclusion manifests in a persistent opacity and inaction regarding inclusive decision-making processes, coupled with a lack of transparent criteria for participant selection and representation in key working groups.[142]

18. What do you think about the potential benefits of Guiding Principles on AI regulation and cultural rights, akin to those on Business and Human Rights? Would such an instrument be useful, especially in the absence of domestic regulation?

Guiding principles on AI regulation, structured similarly to the UN Guiding Principles on Business and Human Rights, could play a vital role in protecting cultural rights, especially in contexts where domestic regulation is weak or non-existent. By establishing a coherent, internationally recognised framework for how AI intersects with cultural, linguistic and creative rights, such principles would give civil society, governments, technology companies and creators an outline to assess whether AI

138 Ibid.
139 https://opiniojuris.org/2024/11/05/understanding-the-scope-of-the-council-of-europe-framework-convention-on-ai/
140 https://www.un.org/digital-emerging-technologies/sites/www.un.org.techenvoy/files/Global-Digital-Compact_background-note.pdf
141 https://docs.un.org/en/A/HRC/59/53
142 https://ia.derechosdigitales.org/wp-content/uploads/2025/03/Participacio%CC%81n-significativa_2024_ES.pdf

systems are being developed and deployed in ways that safeguard cultural self-determination. The fact that various AI principles and guidelines, including UNESCO's Recommendation on the Ethics of AI, as well as the OECD AI Principles, already emphasise that AI actors should prioritise "non-discrimination and equality, freedom, dignity, autonomy of individuals, privacy and data protection, diversity, fairness, social justice, and internationally recognised labour rights,"[143] highlights the feasibility of this approach.

However, the proliferation of multiple, often overlapping sets of AI principles and ethical guidelines risks creating fragmentation and confusion, making operationalisation and enforcement difficult. Any new guiding principles should therefore not stand apart from existing human rights instruments, but rather strengthen and integrate them. A single, comprehensive global framework, much like the UN Guiding Principles on Business and Human Rights, should serve as the foundational blueprint for states and companies, ensuring that implementation and oversight are coherent, effective and grounded in human rights. Importantly, these principles must also recognise that cultural rights cannot be separated from civil, political, economic and social rights. These rights are mutually reinforcing and intersecting; for example, freedom of expression enables the exercise of cultural and linguistic rights, while freedom of association supports workers' rights in creative and cultural industries. AI principles must therefore be holistic, addressing all rights as interconnected and co-dependent.

Such an instrument would help fill the regulatory gap by providing soft law norms that can be adopted rapidly and adapted locally, even where binding law is absent. Importantly, these principles would reinforce the idea that cultural rights are interdependent with other human rights and development goals. Additionally, they could encourage corporations and governments to integrate cultural impact assessments, consultation with marginalised and underrepresented communities (including Indigenous and minority language groups), and benefit-sharing mechanisms into AI frameworks, reflecting the multistakeholder approaches emphasised in the UN Guiding Principles on Business and Human Rights.[144]

However, while such guiding principles would be highly useful, their effectiveness ultimately depends on translation into enforceable practices, accountability mechanisms and capacity building, especially in the Global South. Without proper implementation based on rights-based frameworks, they risk becoming symbolic rather than substantive. Nonetheless, as a starting point in the absence of robust domestic regulation, they provide a means to centre culture, languages and community agency in the rapidly evolving AI ecosystem.

143 https://www.oecd.org/en/topics/sub-issues/ai-principles.html

144 https://www.business-humanrights.org/en/latest-news/big-tech-remains-silent-about-applying-a-human-rights-approach-to-generative-ai-investment-decisions/

19. Please share any other comments.

Recommendations

A. Human rights framework

- States must integrate a human rights framework, particularly a cultural rights approach, into the development and deployment of AI. Grounded in the principles of universality, indivisibility, non-discrimination, equality and participation, this approach would ensure that these and other emerging technologies respect cultural diversity, promote linguistic inclusivity, and prioritise the needs of underrepresented communities throughout their design and use.

- States must also ensure the mitigation of human rights impacts and harms through a people-centred approach. This includes allowing for restrictions and prohibitions on AI technologies when sufficient safeguards for cultural rights are not in place.

B. Community participation

- Guarantee the meaningful participation of all affected communities in AI-related decision-making that impacts on cultural rights. This is essential to safeguard traditional creative expressions and Indigenous knowledge systems from unauthorised or inappropriate use by AI.

- Include public participation mechanisms, particularly from historically marginalised communities most likely to be affected by AI impacts on cultural rights, in the development of legal frameworks governing AI deployment in the field of cultural rights. It is key to meaningfully involve specialised civil society organisations in these scenarios as well.

- The development of AI technologies must be guided by participatory planning and design. Incorporating principles of diversity and plurality, along with direct community leadership, is crucial for creating digital tools that are responsive to the specific socio-political and cultural realities of the Global South.

C. Cultural safeguards

- Develop robust safeguards to prevent the exploitation of communities when training AI systems and ensure their recognition as rights holders, not mere data sources. Without these measures, AI systems will perpetuate epistemic injustice and undermine cultural self-determination, both core elements of the right to development. This is especially critical for decisions regarding heritage datasets. Heritage communities must be recognised as key decision-making entities, and their moral and material interests must be safeguarded.

- Develop and require cultural rights impact assessments throughout the AI life cycle in line with the UN Guiding Principles on Business and Human Rights. The results of such assessments should be made public, as well as how impacts are addressed.

D. Language and knowledge

- Make visible AI initiatives driven by historically marginalised communities, which challenge the dominance of big technology companies and show us that it is essential to rethink and redesign technology from the perspective of the cultural wealth of the Global South.

- Promote the creation of content in native languages and related to local culture in order to maintain cultural identity, while facilitating access to digital tools to encourage the creation of digital content that supports community cultural identity and promotes local economic activity.

E. Gender and intersectionality

- Mitigate gender-based bias in AI systems by applying intersectional approaches, ensuring inclusive datasets and adopting safeguards that uphold the rights of women, girls and gender-diverse individuals, and correct detected discriminatory patterns.

F. Community capacity

- Adopt policies that promote technology appropriation by vulnerable groups, notably rural and Indigenous communities, by implementing training programmes on the proper use of digital tools, focusing on security and privacy.

G. Environmental safeguards

- Aligned with the report of the Special Rapporteur on the human rights to safe drinking water and sanitation,[145] states and international institutions should impose a moratorium on new data centres and compel transparency on their resource consumption. This is necessary to mitigate the risks they pose to the climate and to ecosystems that are foundational to many communities' cultures.

H. Labour and creators' rights

- Strengthen labour rights for creators and artists. The protection of cultural rights in the context of emerging technologies like AI is contingent upon the guarantee of cultural workers' rights. Currently, the cultural ecosystem is pressured by several intersecting challenges which include the unequal recognition of intellectual property and unfair contractual agreements among the various actors in the cultural production chain. These pose an additional burden in a context where artistic and creative work is often mediated by precarious or undignified conditions.

145 https://docs.un.org/en/A/HRC/60/30

I. Multistakeholder dialogue

- Foster structured dialogues between technology companies, user communities, creators and artist collectives to explore regulatory approaches that move beyond transparency in the training of AI tools, explicitly mandating that AI systems are developed and used in accordance with a cultural rights perspective, actively preventing the reproduction of violence, bias and discrimination. This collaboration should aim to define robust mechanisms for protection, redress and compensation that protect all parties in the cultural production chain, addressing restrictive legal frameworks that inhibit users from freely accessing, using and enjoying cultural content, online and offline, without the threat of legal sanctions.