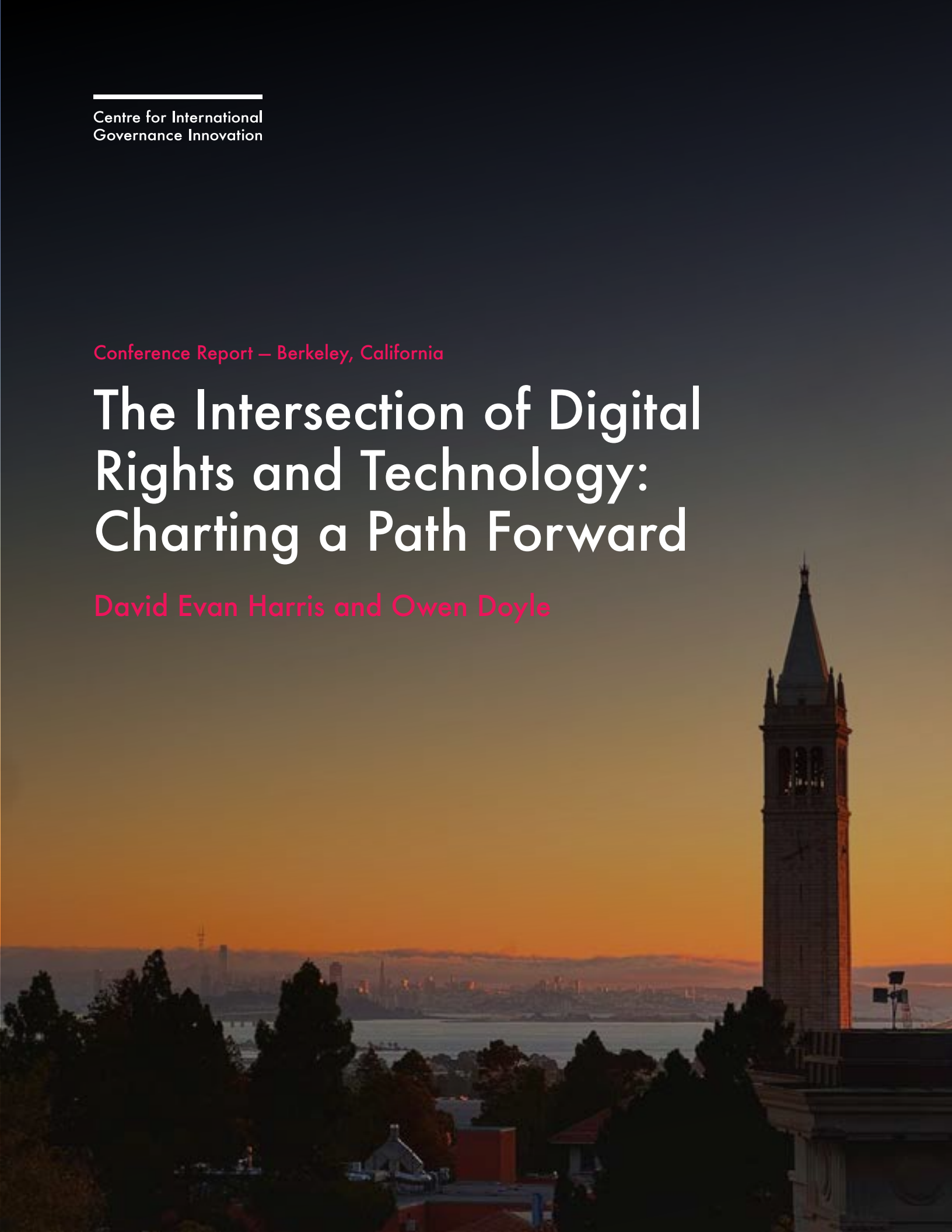
Centre for International
Governance Innovation

Conference Report – Berkeley, California

The Intersection of Digital Rights and Technology: Charting a Path Forward

David Evan Harris and Owen Doyle



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Conference Report – Berkeley, California, May 21, 2024

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Le Centre pour l'innovation dans la gouvernance internationale (CIGI) est un groupe de réflexion indépendant et non partisan dont les recherches évaluées par des pairs et les analyses fiables incitent les décideurs à innover. Grâce à son réseau mondial de chercheurs pluridisciplinaires et de partenariats stratégiques, le CIGI offre des solutions politiques adaptées à l'ère numérique dans le seul but d'améliorer la vie des gens du monde entier. Le CIGI, dont le siège se trouve à Waterloo, au Canada, bénéficie du soutien du gouvernement du Canada, du gouvernement de l'Ontario et de son fondateur, Jim Balsillie.

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About the Authors

David Evan Harris is a CIGI senior fellow, a Chancellor's Public Scholar at the University of California (UC), Berkeley, and faculty member at the Haas School of Business, where he teaches courses on tech policy design, artificial intelligence (AI) ethics, social movements and social media, civic technology, futures thinking and scenario planning. His writings and commentary have been featured by *The Wall Street Journal*, *The Washington Post*, CNN, BBC, the Associated Press, *The Guardian*, Bloomberg and *The Atlantic*, among others. He was named to Business Insider's AI 100 list in 2023.

David is also a senior research fellow at the International Computer Science Institute, senior policy advisor at the California Initiative for Technology and Democracy and senior advisor at the Brennan Center for Justice. He is an affiliated faculty member with the Center for Information Technology Research in the Interest of Society Policy Lab; the Center for Latin American and Caribbean Studies; the Center for Equity, Gender & Leadership; and the Business & Public Policy Group at UC Berkeley.

In his previous role as a research manager at Meta (formerly Facebook), David managed teams of quantitative and qualitative researchers working on responsible AI, social impact and civic integrity. During his nearly five years with Meta, he worked on topic areas including AI fairness and inclusion; AI governance and accountability; global election integrity; misinformation; coordinated inauthentic behaviour; hate speech; human rights; political violence; harassment and online safety for activists, journalists and politicians; community organizing; civic participation; racial justice; authoritative information; and volunteering and non-profit organizations.

David previously served as research director at the Institute for the Future, where he led research on the future of media, philanthropy, governance, international development and social movements. He was an intern at the White House Council on Environmental Quality and a confidential assistant at the Office of Management and Budget, Natural Resources Division.

David has a B.A. in the political economy of environment and development from UC Berkeley and an M.S. in sociology from the University of São Paulo in Brazil. His preferred research methods include ethnography, in-depth interviews, aggregation of expert opinion, survey design, scenario planning, signals scanning, multi-stakeholder workshop facilitation, grounded theory and content analysis.

In 2004, David founded the Global Lives Project, a network of people working to build a video library of daily life around the world, which he continues to support.

Owen Doyle is a policy researcher whose work focuses on technology and society, AI governance, social media and online information ecosystems. He serves as a policy analyst with the Harris Research Group, supporting David Evan Harris on a broad portfolio of technology policy initiatives.

Introduction

On May 21, 2024, the Centre for International Governance Innovation (CIGI) and the International Computer Science Institute (ICSI) hosted an in-person workshop on digital rights and emerging technologies, "The Intersection of Digital Rights and Technology: Charting the Path Forward," in Berkeley, California. This workshop welcomed global leaders and experts from across the technology sector to engage in a structured discussion. Workshop participants came from a wide range of backgrounds, including representatives from major technology companies and civil society leaders from non-profits, advocacy groups and academia. The objective of the workshop was to foster cross-sectoral discussion on improving the protection of digital rights in the face of constantly evolving technologies. The workshop operated on a definition of digital rights that aligns with the European Declaration on Digital Rights and Principles for the Digital Decade.[1] This conference report outlines digital rights as an expansion of fundamental rights, with a specific emphasis on the most relevant rights amid the digital transformation of the world, such as freedom of choice, data protection and privacy.[2]

Specific topics for discussion included determining the role of civil society in addressing issues related to digital rights, outlining the problems faced by various stakeholder groups when attempting to address these issues, and suggesting ways to improve cross-stakeholder collaboration. The discussion was led by Susie Alegre, international human rights lawyer; Aaron Shull, managing director and general counsel at CIGI; and David Evan Harris, Chancellor's Public Scholar at the University of California, Berkeley, and a fellow at both ICSI and CIGI. The workshop's objective was to foster an open dialogue between the major stakeholder groups involved in this topic and develop insights into how the shared goal of fair and equitable digital rights may be achieved.

This conference report summarizes the key takeaways from the workshop, drawing on information from the presentations, activities and discussions that took place. This workshop was held under the CIGI Rule, meaning that no views or information expressed may be attributed to any participant.[3] Furthermore, the statements presented in this conference report do not necessarily represent a consensus among the participants, nor are they intended to convey the views of any individual or organization.

Applying Human Rights in a Digital World

Alegre hosted the first portion of the workshop, providing a robust background on human rights before and after the rise of digital technologies, drawing on her two books on the topic.[4] This portion of the workshop began with a discussion of the historical origins of human rights, looking back at foundational documents such as the Code of Hammurabi, the Magna Carta, the Declaration of the Rights of Man and of the Citizen, and the US Bill of Rights. Importantly, Alegre noted how these early iterations of human rights often did not apply to women or people of colour and lacked many other considerations of equality and fairness. After discussing these documents, Alegre shifted focus to the founding events of modern human rights, most of which originated from the post-Second World War era. The group considered the 1945 Nuremberg trials and the prosecution of not only Nazi officials but also doctors, lawyers, businessmen, technologists and scientists who were all involved in Nazi efforts. In light of the Nuremberg trials and the broader post-war global climate, many nations began to acknowledge the need for a globally recognized framework that defines universal protections for all human beings. Three years later, the United Nations adopted the 1948 Universal Declaration on Human Rights,[5] presenting the first globally accepted statement on fundamental

1 EC, *European Declaration on Digital Rights and Principles for the Digital Decade* (2023/C 23/01), [2023] OJ, C 23/1, online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOC_2023_023_R_0001>.

2 *Ibid*; see also https://digital-strategy.ec.europa.eu/en/policies/digital-principles.

3 See www.cigionline.org/about/cigi-rule/.

4 See Alegre (2022, 2024).

5 *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948), online: <www.un.org/en/about-us/universal-declaration-of-human-rights>.

human rights and freedoms. After this watershed moment, a number of other national and regional laws emerged, including the European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

As workshop attendees explored these topics, Alegre further emphasized how the rights outlined in these documents are frequently applied through domestic and regional laws and enforceable in courts. Across nations and laws, these human rights are interpreted through a number of structural differentiations. The first differentiation is between positive and negative human rights obligations. Positive human rights obligations require states to take action to protect and promote human rights. Negative human rights obligations forbid states from taking actions that violate these rights. A second structural differentiation is between limited, qualified and absolute rights. To this end, limited rights are rights that governments can restrict under certain circumstances, such as wartime; qualified rights are rights that can be restricted within defined limits, such as the right to a private life; and absolute rights are rights that cannot be infringed upon, such as the prohibition on slavery.

When applying these frameworks to the novel characteristics of the digital world, some frameworks are not well enforced. To this end, one increasingly important area for research is the right to freedom of thought (FoT) in the context of the digital world. With so many new technologies interfacing with decision making at increasing depths, such as personalized artificial intelligence (AI) chatbots and agents, mass data collection and targeted advertising, maintaining the integrity of FoT gains new urgency.

In this discussion, Alegre emphasized that FoT is not a novel concept and is, in fact, a widely recognized and fundamental human right. In its application, FoT encompasses the freedom to form, hold and express one's thoughts, beliefs and opinions without interference or coercion.[6] This definition can be traced back to several international human rights declarations, most notably the 1948 Universal Declaration of Human Rights and the 1976 International Covenant on Civil and Political Rights. During the workshop, Alegre explained that through the inception of FoT in 1948 and its applications in later instruments, it came to be defined in three main pillars. The first is the right to keep thoughts private, meaning that an individual has the right to keep their thoughts, beliefs and opinions private and free from interference. This also encompasses protection against unauthorized surveillance or monitoring that could intrude upon one's inner reflections. The second pillar is the right not to be punished for thoughts, meaning the right not to face punitive measures or discrimination based solely on one's thoughts or beliefs. This applies regardless of the nature or contents of one's thoughts. The third pillar is the right to be free from manipulation, which empowers individuals to be free from coercion or manipulation that aims to influence their thoughts or beliefs.

After Alegre's introduction to FoT, the discussion was opened to the multi-disciplinary perspectives of workshop participants. Workshop leaders kept the discussion focused on how the pillars of FoT may have become — or could become — compromised in the digital world. All participants who spoke out during this segment agreed that protecting FoT was a critical pursuit, though most raised concerns about the difficulty of enforcement. Many attendees highlighted the need to develop empirical definitions of the pillars of FoT, explaining their importance for evidence-based policy making. Other participants emphasized the need for more research that can find ways to tangibly measure the extent to which FoT is being compromised under practices such as "subliminal" advertising. It was also noted that a legal definition of FoT does not yet exist, leaving policy makers without a definition to rely on in subsequent efforts. This raises a significant barrier for policy making in this space, as legal precedent cannot be used without an established definition. In pursuing this definition, participants mentioned that definitions and enforcement would likely begin on smaller local levels before expanding outwards in a "ripple effect."

Activity: Looking Back to Look Forward

After opening discussions on human rights in the digital world, workshop participants took part in a foresight exercise called "looking back

6 *Ibid.*

to look forward."[7] This collaborative exercise involved participants contributing relevant events to a historical timeline that the group developed together. With a focus on human rights and the digital world, participants suggested historical events that would fall within the categories of the PESTLE framework: political, economic, social, technological, legal and environmental (Sridhar et al. 2016). Once the participants collaboratively developed a robust historical timeline, the exercise opened up to forecasting potential future milestones that could inspire strategies to protect digital rights.

The exercise had two main objectives. The first was to encourage critical reflection on the numerous past events that contributed to the development of modern human rights and the current digital landscape. This was done to provide important historical context for the following group discussions. The second objective of the exercise was to spark inspiration among the participants about the political, technological and environmental challenges that the future may hold. This was done to emphasize the importance of advancing our modern understanding of human rights and prepare participants for the following discussions on addressing the current and future challenges of the digital age.

The activity yielded a robust collection of results across both historical and future events. In total, participants presented 108 historical events and forecast 97 possible future events. The events were roughly evenly distributed across the PESTLE categories.

Several historical milestones were highlighted as significant for the development of modern digital rights. Many participants noted the historical establishment of human rights dating back to the Code of Hammurabi in 1754 BCE and extending into Enlightenment-era philosophical movements. Another important milestone was flagged in the late twentieth century when numerous attempts were made to codify human rights into law. Participants noted that this occurred both internationally, through the Universal Declaration of Human Rights, and in the United States through civil rights legislation. Participants also considered the importance of late twentieth-century and early twenty-first-century technological and legislative developments, beginning with the advent of the World Wide Web; the 1996 Communications Decency Act, which included its influential section 230; and the establishment of many major tech companies. Participants also noted that, during this period and into the 2010s, regulations for these technologies remained sparse, despite rising human rights concerns. Specifically, participants highlighted significant human rights issues, such as the rise of "deceptive design" or "dark patterns" in user experience design; the 2013 Edward Snowden whistle-blowing event and the rise of government surveillance; the 2016 Cambridge Analytica scandal; and the 2017 Myanmar genocide.

Following this, participants identified an ensuing wave of government and civil society movements aimed at combatting these issues. This included the 2016 ProPublica paper on the racial bias of the COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) algorithmic sentencing software, as well as other significant legal milestones, such as the European Union's General Data Protection Regulation adopted in 2016 and the 2018 California Consumer Privacy Act. Moving forward into the 2020s, participants pointed to the modern wave of technological innovation and the ensuing societal issues that are raised. This included the declining health of the information environment on the internet, the introduction and proliferation of consumer-level generative AI tools, and declining privacy conditions in many parts of the world. Some participants observed a positive trend in contemporary regulatory actions aimed at addressing these issues, most notably in discussions of the EU AI Act. However, other participants felt that intensive intervention is still needed to resolve these issues and continued to hope that more regulatory action would follow.

When expanding the exercise to anticipated future events, participants' responses followed several clear themes. First, most participants anticipated that there would be many significant societal issues related to AI in the near future. Participants raised concerns about AI disinformation, the impact of AI on labour and AI-enabled cyber warfare. Importantly, however, many participants also anticipated that AI regulation would increase dramatically in the next five–eight years. This

7 This exercise was based on a workshop facilitation method popularized by the Institute for the Future; see www.coursera.org/lecture/introduction-to-futures-thinking/how-to-look-back-to-look-forward-part-i-wdc2j.

included the introduction of several global treaties and agreements on AI use, the rise of the Federal Trade Commission as a technology oversight authority in the United States,[8] the amendment of section 230, and the introduction of legal and regulatory frameworks on the climate impacts of AI training. In the 2030s and beyond, participants anticipated that advanced technological innovations, such as AI, would become deeply integrated into society. This would include extreme economic changes, such as automation and roboticization, redefining the labour market. Furthermore, some participants also expected significant improvements in AI infrastructure, including the development and proliferation of the synthetic data market, as well as subsequent innovations such as self-training AI.

The Role of Civil Society as a Necessary Moderating Force

One of the core discussions of the workshop asked participants to develop a collective understanding of the role that civil society plays in advancing digital rights. In these discussions, participants operated within the UN definition of civil society,[9] which outlines civil society as "any non-profit, voluntary citizens' group" and thus encompasses workshop participants from non-profits, advocacy groups and academia.

When prompted about the role of civil society, many participants from civil society voiced their views. Across those who spoke, two distinct themes emerged. First, participants agreed that civil society often bears a significant share of the work involved in assessing and mitigating the risks of new technologies. This work involved a range of operations, including identifying mechanisms for harm, understanding the risk landscape, quantifying harms, evaluating potential threats to digital rights, raising public awareness and proposing solutions. Furthermore, participants highlighted the importance of civil society in shaping key issues in emerging digital rights topics such as FoT. Through these operations, participants described civil society as serving an integral role in the responsible development cycle of technology. Within this cycle, participants emphasized the role of civil society in defending the public interest against business and government practices that could infringe on digital rights. Participants described the role of civil society as a necessary component of this cycle. Some participants, particularly those from the private sector, pushed back, asserting that many technology companies have internal processes that mirror these broader societal conversations. Participants from the private sector emphasized the importance of their work within their companies to address the same issues being discussed.

The second theme of this discussion involved incentives, funding and corporate capture. Members of civil society emphasized that their independent status made them uniquely qualified to assess digital rights. They proposed that because civil society exists separately from business interests, it is not at risk of "pulling punches" in evaluations. Specifically regarding FoT, civil society participants emphasized the "natural tendency" of advertising technology — and the advertising business model, more broadly — to call into question FoT protections. They felt that this interaction, particularly regarding FoT protections, makes it difficult for the private sector to complete an impartial analysis. Civil society participants also noted that this makes civil society uniquely positioned to provide research support and policy frameworks for policy makers who are attempting to address these issues through legislation. Pushback to these points raised the idea that civil society itself may not be entirely free from bias. These participants underscored how civil society may be incentivized to publish results that can create maximal public and investor excitement for their organization. To this end, industry representatives noted that civil society organizations may sometimes choose to publish results publicly to "make a splash" rather than work with the private sector, without publicity, to resolve issues. Furthermore, pushback from academics specifically highlighted how many civil society organizations are not often truly independent from the influence of the private sector. Instead, these civil society organizations continue to accept funding from the private

8 Perhaps this forecast would not have been made had the workshop been held after the 2024 US presidential election.

9 See www.un.org/en/get-involved/un-and-civil-society.

sector, and even under the claim of research independence, they could still be beholden to their funders and thus create biased research results.

Critical Barriers for Civil Society

Throughout the discussion of civil society's objectives in relation to digital rights, it became apparent that participants struggled to discuss goals without also addressing the challenges. The following section assesses the challenges faced by civil society in protecting digital rights, as they were brought up in the discussion.

- **Access to sufficient funding:** The most commonly mentioned issue for civil society was the scarcity of funding. Many researchers in civil society, particularly those focusing on human rights, conduct their work with little to no compensation. Similarly, civil society organizations focusing on these issues often struggle with limited resources. Participants agreed that this was an unfortunate truth of the field, and that many chose to continue this work because they genuinely care about it and believe it is important. Another funding issue is the question of accepting funding from the private sector. Many civil society organizations hesitate to accept and, in some cases, reject funding from private companies. When accepting funds from the private sector, some organizations believe they become beholden to the company providing the funds, which could conflict with their public mission. At the same time, some of the largest and most influential civil society organizations operating in the digital rights space accept funding from the tech industry and, in many cases, it is difficult to assess whether this has compromised, or may compromise, the integrity of their work and fulfillment of their missions.

- **Power imbalances between sectors:** Participants also noted the power disparities that can disadvantage civil society groups. They highlighted how civil society can accumulate power through organizing political or labour movements, which can be leveraged to exert pressure on the private sector. However, participants also mentioned how the private sector has the resources to effectively sweep issues raised by civil society under the rug through lobbying, marketing and other influence campaigns. This leaves civil society severely outgunned, with the private sector using its resources to deprioritize efforts to regulate the technology industry. Furthermore, while in this dominant position, the private sector will often prioritize profitability and technological superiority over the ethical implications and social impacts of its innovations. As a result, already-marginalized communities are dismissed as "edge cases." With little to incentivize the private sector to tackle complex issues involving the protection of their users' digital rights, new technologies from the private sector may tend to exacerbate existing inequalities and create novel modes of harm.

- **Bias in private sector internal research:** Civil society stakeholders argue that private companies doing their own safety research can degrade the quality and accuracy of the research's findings. Specifically, participants outlined how this can occur through two mechanisms. The first is that the research can become "defanged" — systematically pushed away from topics and findings that could impose costs or legal risks upon the technology companies bankrolling the research itself. The second mechanism mentioned by participants was that private sector research often lacks deep engagement with the communities most impacted by technologies that infringe upon digital rights, which are often more central to civil society research.

- **Ensuring government accountability:** While participants from all backgrounds recognized the importance of government intervention, they also made many critiques of government regulation. First, participants noted that government funding typically lags far behind society's pressing issues, especially in technology environments where rapid innovation is a key objective for private industry. Second, a few participants commented that because of this delay in regulatory movement, governments often struggle to choose relevant and impactful research and policy directions. Due to these issues, participants from civil society argued that far too much of the responsibility for responsible technology

development falls on the shoulders of civil society researchers and organizations.

- **Influencing public opinion on innovation versus user well-being:** Lastly, civil society participants highlighted a specific challenge they face when describing the value trade-offs between technological innovations and user well-being. Specifically, participants noted how companies tend to create new technology and convince users that it is precisely what they "need." Meanwhile, users struggle to recognize the long-term costs of this use, including the lost value of their data being collected by technology companies. Participants from civil society expressed that helping users understand the actual cost of technology is a fundamental role of civil society. In this responsibility, they note that with the rise of technologies that are increasingly appealing and addictive to users, it has become more challenging to communicate to users that they are experiencing real downsides from using these technologies.

Recommendations for Effective Collaboration Between Civil Society and the Private Sector

The final section of this conference report presents the main recommendations drawn from the discussions throughout the workshop. These recommendations aim to enhance the collaboration between digital rights advocates in civil society and for-profit technology companies, with the goal of jointly promoting the development of digital rights.

Recommendations for Technology Companies

Provide Vetted Researchers with Access to Platform Data and Research Support

Under the European Union's Digital Services Act, vetted researchers in EU member countries are granted access to anonymized data from social media platforms to conduct research on the social impacts of online platforms and search engines. This type of research access should also be granted to vetted researchers from reputable civil society organizations worldwide, based on an accreditation process modelled after that of the European Union but managed by established civil society groups. This operation can enable civil society organizations to be maximally effective, particularly in terms of the specificity and feasibility of their recommendations.

Increase Collaboration Between Industry and Civil Society

During the discussion, representatives from civil society organizations emphasized the declining willingness of the private sector to collaborate with civil society. They suggested that the private sector is shifting its partnerships away from civil society organizations in favour of consultancies or internal private sector researchers that will overly restrain their critiques. By underutilizing the ready collaboration of civil society in favour of this path, the private sector increases the risk of generating severe negative impacts. The private sector must remain open to facilitating the responsible development cycle of technology through collaborating directly with civil society. This may involve operations such as opening direct channels for collaboration, granting civil society access to key resources and giving serious consideration to civil society's recommendations. Building on this, the private sector must allocate more resources to implementing civil society's recommendations, specifically dedicating efforts toward interpreting these recommendations from a business perspective and implementing actual change.

Increased Transparency Regarding Private Sector Commitments

Another disconnect between civil society and the private sector occurs when the private sector falls short in some of its actions. Several civil society participants noted that companies often release declarations of their values without a road map for achieving those values within their technology. Examples of this include the White House (2023) voluntary AI commitments and the AI Elections Accord signed by major tech companies at the 2024 Munich Security Conference.[10] Second, the private sector must work to increase its flexibility in aligning with business objectives,

10 See https://securityconference.org/en/aielectionsaccord/launch/.

particularly when interpreting recommendations from civil society. As much as civil society must integrate considerations for business objectives (see below), the private sector must present a degree of flexibility if it wishes to achieve real change with any of the values-based objectives related to their technology. In some cases, this may require product changes that decrease short-term revenues but ultimately serve society better and build trust in corporate brands that lead the way toward ethical product development.

Recommendations for Civil Society Organizations

Enhance the Specificity of Recommendations to Private Industry

Multiple participants from private technology companies expressed a desire to receive more specific and actionable recommendations from civil society organizations. Participants from the private sector emphasized that several forms of specificity must be present to maximize the impact of these recommendations. First, private sector representatives stressed the importance of recommendations that can be applied as policy or product changes rather than values-based recommendations that are difficult to translate into specific actions. They argued that this would greatly improve the approval rate and net impact of recommendations from civil society. Second, private sector representatives requested an increased emphasis on empirical, evidence-based findings when making recommendations to the private sector. When discussing this, private sector representatives repeatedly noted that data-backed recommendations with clearly defined metrics have a higher chance of being approved compared to recommendations based on moral values. It should be noted, however, that in order to be feasible, this will require greater transparency and access for researchers from civil society, as mentioned above.

Incorporate Additional Business Feasibility Considerations into Some Recommendations

A second critical disconnect between civil society and the private sector involves feasibility. Representatives from the private sector state that civil society's recommendations are often impossible to fulfill within the context of business operations. This can cause recommendations to be rejected before they are given proper consideration. In some specific cases, it may be reasonable for civil society to consider the private sector's business objectives. According to private sector representatives, increasing business feasibility within civil society recommendations could increase the approval rate. For civil society, this may involve presenting opportunities for compromise within their recommendations when necessary to gain private sector approval. Further, private sector representatives stressed that technologists are not all evil and do not revel in rejecting civil society's recommendations. Instead, many in the private sector share values similar to those who work in civil society, but they are ultimately beholden to different objectives and thus must operate within the context of business constraints. However, it should be anticipated that civil society may have strong reservations about watering down recommendations to account for business interests.

Administrative Tooling for Implementing the UN Guiding Principles

The UN Guiding Principles on Business and Human Rights (UNGP) is a valuable resource in this field that is often underutilized. Civil society could work with the private sector to create an administrative framework for implementing the UNGP as a "best practices" guide for their business. The UNGP outlines a framework based on three pillars: protect, respect and remedy. By applying the principles, companies can mitigate risks, enhance public trust and ensure that their innovations contribute positively to society while respecting human rights. This may include creating administrative tools for human rights impact assessments (HRIAs), addressing biases and promoting transparency.

Recommendations for Policy Makers

Policy Dreams from Civil Society and the Private Sector

As the final exercise in the workshop, the organizers asked each participant to submit their "policy dreams," free from consideration of political or operational feasibility. The authors consider the following list to be a true amalgamation of policy ideas from a group of professionals who are at the forefront of preserving digital rights. The authors hope that these ideas can inform future policy direction for policy makers worldwide.

Design and development requirements for the private sector:

- → Require "privacy by design" and "participatory design" principles.
- → Require human rights risk management across all entities within a company's technology infrastructure, including developers and deployers.

Impact evaluations, reporting and transparency:

- → Require system cards, including human rights risks and mitigations for all models, tools and systems.
- → Require companies to hire teams focused on societal impact, societal effects or societal risks.
- → Require independent or government pre-deployment review and approval of technology to be used in high-risk environments.
- → Require independent pre-deployment and post-deployment impact assessment for all large models.
- → Introduce compulsory socio-technical risk mitigation processes to be followed by all AI businesses above a specific size and all government organizations using AI.

Human rights evaluations:

- → Require HRIAs and human rights due diligence (HRDD) throughout the AI development life cycle.
- → Require data transparency and auditability standards to conduct HRIAs and HRDD.

Oversight:

- → Require all very large online platforms to participate in an oversight board.
- → Create and facilitate community oversight boards in key technology sectors.

Prohibitions:

- → Enforce the legal prohibition of AI-generated child sexual abuse material (CSAM).
- → Enforce the legal prohibition of AI-generated image-based sexual abuse.
- → Increase protection for victims of CSAM and non-consensual sexual materials.
- → Prohibit unchecked mass surveillance of citizens by governments.
- → Prohibit unchecked biometric surveillance.

Reforms of existing systems:

- → Reform campaign finance and antitrust laws to reduce the concentration of power.
- → Integrate human rights into key global taxonomies and frameworks.
- → Increase the protection of independent journalism.

Government oversight and enforcement:

- → Introduce the enforcement of algorithmic disgorgement for unlawful models.
- → Develop an AI model-licensing regime based on a comprehensive analysis of the full scope of potential harms.
- → Create a frontier AI-licensing regime with mandatory training, pre-deployment and post-deployment testing and evaluations.
- → Introduce legislation and bolster cross-sectoral efforts to address problems of inauthentic use of AI bots in elections and influence operations.
- → Bolster the protection of data rights encoded into federal law.
- → Protect the right to be forgotten and require opt-out capabilities for all AI-enabled services.

Acknowledgement

The authors wish to acknowledge the valuable engagement enjoyed with participants of the workshop. The valued attendees who took part in discussions and who consent to be acknowledged are listed below. The participants' involvement with the workshop and conference report does not in any way indicate their agreement — in whole or in part — with this publication, and their participation does not reflect any official policy or position from their respective associations. The authors would also like to thank UC Berkeley students Anish Ganga, Octavia Chen, Jerome He and Parth Shinde for their research contributions and assistance in the successful administration of this event.

Agenda

Tuesday, May 21, 2024

10:00 a.m.–10:30 a.m. **Arrival and Registration**

10:30 a.m.–10:35 a.m. **Welcome Remarks**

→ **Lea Shanley,** Director, President and CEO, ICSI

10:35 a.m.– 11:15 a.m. **Introduction and Tour de Table**

→ **David Evan Harris,** Chancellor's Public Scholar, UC Berkeley; Senior Research Fellow, ICSI; Senior Fellow, CIGI
→ **Aaron Shull,** Managing Director and General Counsel, CIGI

11:15 a.m.–11:30 a.m. **Setting the Stage**

→ **Susie Alegre,** International Human Rights Lawyer; Senior Fellow, CIGI

11:30 a.m.–12:15 p.m. **Session One: Looking Back to Look Forward**

The group collectively constructs a history of digital rights, AI, social media, democracy and tech innovation.

→ **David Evan Harris,** Chancellor's Public Scholar, UC Berkeley; Senior Research Fellow, ICSI; Senior Fellow, CIGI

12:15 p.m.–1:15 p.m. **Lunch**

1:15 p.m.– 2:15 p.m. **Session Two: Implications of AI for Digital Rights**

A discussion considering the challenges that arise at the intersection of AI and digital rights. Key topics will include:

- The impact of AI on elections, democracy and disinformation.
- AI bias and fairness in decision-making processes.
- The role of AI in surveillance and its implications for freedom of expression and thought.
- Strategies for integrating rights-based frameworks in AI development and deployment.

→ **Aaron Shull,** Managing Director and General Counsel, CIGI

2:15 p.m.– 2:20 p.m. **Break**

2:20 p.m.– 3:20 p.m. **Session Three: Policy Recommendations for Digital Rights**

Policy dimensions of digital rights in the context of emerging technology. Discussion points will include:

- Current international and state-level regulations affecting digital rights (for example, EU Digital Services Act, EU AI Act, California AI bills).
- Legal implications of AI on human rights and digital autonomy.
- Policy recommendations to safeguard digital rights in the face of emerging technologies.
- Collaborative approaches among technology companies, policy makers and civil society to develop robust digital rights protections.

→ **David Evan Harris,** Chancellor's Public Scholar, UC Berkeley; Senior Research Fellow, ICSI; Senior Fellow, CIGI

→ **Lightning talks:**

- Megan Nzita-Johnson, Tech Policy Trainee, European Union Office in San Francisco
- **Samantha Gordon,** Chief Program Officer, TechEquity Collaborative

3:20 p.m.–3:25 p.m. **Break**

3:25 p.m.–3:55 p.m. **Round Table Plenary Discussion**

→ **David Evan Harris,** Chancellor's Public Scholar, UC Berkeley; Senior Research Fellow, ICSI; Senior Fellow, CIGI

3:55 p.m.–4:00 p.m. **Conclusion and Next Steps**

→ **David Evan Harris,** Chancellor's Public Scholar, UC Berkeley; Senior Research Fellow, ICSI; Senior Fellow, CIGI

→ **Aaron Shull,** Managing Director and General Counsel, CIGI

4:00 p.m.–5:00 p.m. **Closing Reception**

Participants

Susie Alegre
International Human Rights Lawyer; Senior Fellow, CIGI

Jordi Calvet-Bademunt
Research Fellow, The Future of Free Speech; Visiting Scholar, Vanderbilt University

Camille Crittenden
Executive Director, Center for Information Technology Research in the Interest of Society and the Banatao Institute

Alisa Frik
Research Scientist, ICSI, Usable Security and Privacy Research Group

Anish Ganga
Student, UC Berkeley; Research Assistant to David Evan Harris

Samantha Gordon
Chief Program Officer, TechEquity Collaborative

David Evan Harris
Chancellor's Public Scholar, UC Berkeley; Senior Research Fellow, ICSI; Senior Fellow, CIGI

Alexa Koenig
Research Professor of Law; Co-Faculty Director, Human Rights Center, UC Berkeley

Laura I. MacCleery
Senior Policy Director, UnidosUS

Sean Ness
Chief of Staff, ICSI

Shannon Raj Singh
Principal and Founder, Athena Tech & Atrocities Advisory

Naomi Shiffman
Head, Data and Implementation, Meta Oversight Board

Aaron Shull, Managing Director and General Counsel, CIGI

Miranda Sissons
Director of Human Rights Policy, Meta Platforms

Jenny Thiel
Program Manager, CIGI

Isobel Wood
Vice Consul Tech Policy, British Consulate-General

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