



Delegation from the Republic of South Africa

Position Paper for the Human Rights Council

Country: South Africa

Committee: The United Nations Human Rights Council (UNHRC)

Topic: Safeguarding Privacy in the Age of Artificial Intelligence

Delegate: Ahmed Ramadan Elsayed



Background of the Issue:

Privacy: a right protected in international human rights law, yet the rapidly escalating rise of artificial intelligence (AI) has placed it under unprecedented strain. No other technological development of recent years has captured the public imagination more than AI, in particular machine learning technologies. Indeed, these technologies can be a tremendous force for good; however, they can also have negative, even catastrophic effects if deployed without sufficient regard to their impact on human rights (United Nations High Commissioner for Human Rights, 2021). AI systems depend on large datasets, often including personal data, to conduct automated decision-making and machine learning technologies without proper safeguarding. The collection of data happens in private and public places; data brokers acquire, analyze, and share personal data with countless recipients. These data transactions are largely shielded from public scrutiny and are only slightly restricted by existing legal frameworks. The resulting data sets are large, and the proportions of information are unknown (Rieke et al., 2016).

The effects are global, where AI is used by law enforcement and national security agencies in the field of biometric recognition, which relies on the comparison of the digital representations of certain features of an individual, such as fingerprints, face, irises, and voice (CERD, 2020; OHCHR, 2021). Remote real-time biometric recognition raises serious concerns under international human rights law; moreover, facial recognition technology can be used to profile individuals based on the basis of their ethnicity, race, national origin, and gender. Furthermore, AI tools have also been developed to allegedly deduce people's emotional and mental state from their facial expressions and other "predictive biometrics" to decide whether they are a security threat (Husztí-Orbán & Ní Aoláin, 2020). Their facial expressions lack a solid scientific basis (Heaven, 2020). Researchers have found only a weak association of emotions with facial expressions (Durán et al., 2017) and highlighted that they vary across different cultures and contexts, making them prone to bias and misinterpretations; moreover, the use of these biometrics by public authorities, for instance for police to stop or arrest individuals based on the AI predictions, poses a particular risk of undermining human rights such as the right to privacy and liberty.

Country Position:

South Africa approaches AI and privacy from a strong constitutional foundation. Section 14 of the Constitution guarantees everyone the right of privacy, operationalized through the Protection of Personal Information Act (POPIA), which sets minimum conditions for lawful data processing (Republic of South Africa, 2013). This is reinforced by the Cybercrimes Act (2020) and the Electronic Communications and Transactions Act (2002). In 2024, the Department of Communications and Digital Technologies published the National AI Policy Framework, which adopts a human-centered, risk-based approach designed to harness AI for development while protecting constitutional rights, social equity, and privacy against harms such as data misuse and deepfakes (DCDT, 2024). As the highest-ranked African country on the 2024 global index on responsible AI and a continental leader in data protection governance, South Africa's core interest is ensuring AI-advanced economic growth without eroding the privacy of its citizens (UNESCO, 2024).

Actions taken:

South Africa's most concrete action is its binding data-protection regime, POPIA. Fully enforced in July 2020, governing how personal information may be collected, processed, and transferred, applying directly to AI systems that process personal data (Republic of South Africa, 2013). South Africa has used its diplomatic platforms to advance AI governance, during its 2025 G20 presidency, it established the Task Force on Artificial Intelligence, Data Governance and Innovation for Sustainable development and, with the AU and UNESCO, launched the AI for Africa initiative at the Cape Town AI for Africa Summit; the Johannesburg Leaders' Declaration commended South Africa's leadership in advancing global AI discussions (G20 South Africa, 2025b; UNESCO, 2025). At the UN, South Africa joined the sponsors of the Human Rights Council resolution on the right to privacy in the digital age (Human Rights Council, 2021) and co-sponsored the 2024 resolution on good governance, which requested a study on the impact of AI systems on human rights and governance (Human Rights Council, 2024).

Proposed Solutions:

1. Encourage limits and bans on high-risk AI systems until states can demonstrate compliance with privacy standards
2. Position the United Nations as the central forum for setting global AI and privacy rules, rather than being shaped by a few powerful states.
3. Establish an international framework that treats privacy as a fundamental right across the entire AI lifecycle
4. Algorithmic transparency and explainability of what data is being collected to citizens

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