

# ODIHR – NHRI Academy

## 2022: AI and Human Rights

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Day 2 – Session 2

**DO WE NEED NEW RIGHTS FOR NEW TECHNOLOGIES?**

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# NEW RIGHTS

Articulation/extrapolation from existing human rights framework + adaptation/contextualisation to new technologies

New binding legal instruments (laws, treaties, bills of rights, etc.) ?

Extensive interpretation of existing human rights legal framework

Jurisprudence/ authoritative interpretation

Non-binding legal instruments (e.g., ethical guidelines)



# A precedent: From Right To Privacy to Data Protection

## Right to Privacy

1948: Universal Declaration of Human Rights, Article 12

1966: International Covenant on Civil and Political Rights, Article 17

1950: European Convention of Human Rights, Article 8

## Rise of automated data processing => need to protect data

1973-1974: CoE Resolutions on privacy of individuals vis-à-vis electronic data banks in the private and public sector

1980: CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (updated in 2018)

1980: OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data (updated in 2013)

2014: ECJ ruling acknowledges “**Right to be Forgotten**”

2016: EU General Data Protection Regulation (including “right to be forgotten”)

**Right to Protection of Personal Data + a person’s right to control his or her personal data and the processing of such data**



# Some calls for new AI-triggered rights:

- Opacity of functioning of algorithms + trade secret → **right to explanation**
- Use of data collected by search algorithms and search engines to build profiles of internet users for marketing, political advertising purposes etc → **right to informational autonomy/self-determination**
- Use of AI-driven services in nursing and care environments (e.g., androids as medical assistants or patient companionship) → **right to meaningful human contact**
- Suspicions of AI bias/discrimination → **right to human review**



# Questions for discussion:

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- **Based on your experience as NHRI in your country/region, is the existing national/international human rights framework adequate to deal with the potential effects of new technologies?**
- **If yes, why? If no, how should it be adapted to the new technologically-driven context?**
- **Do we need to extrapolate (or even create) new rights for a technological era? If yes, which ones would you identify?**



# Sources/reading materials

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