



Will the Global Digital Compact ensure an equitable future for Developing Countries?

By Daniel Uribe *

ABSTRACT

The Global Digital Compact (GDC), adopted by the United Nations General Assembly in 2024, aims to establish a framework for equitable digital transformation, particularly for developing countries. While the GDC acknowledges the importance of human rights, bridging the digital divide, and ensuring a just transition, it faces significant challenges in addressing structural inequalities and implementing robust accountability mechanisms. This paper examines the GDC's potential to foster an inclusive digital future, highlighting the necessity of addressing fundamental rights, promoting business accountability through a legally binding instrument, and recognising the interconnectedness of digital inclusion with access to essential resources like energy, education, and healthcare.

KEYWORDS: Global Digital Compact (GDC), Digital Divide, Digital Inclusion, Digital Transformation, Digital Rights, Human Rights, Just Transition, Legally Binding Instrument, Future of Work

Le Pacte numérique mondial, adopté par l'Assemblée générale des Nations unies en 2024, vise à établir un cadre permettant une transformation numérique équitable, en particulier pour les pays en développement. Si le Pacte souligne l'importance de garantir le respect des droits humains et la nécessité de réduire le fossé numérique et de mettre en œuvre une transition juste, d'importants défis demeurent en ce qui concerne la lutte contre les inégalités structurelles et la mise en place de mécanismes de responsabilisation robustes. Le présent document examine les dispositions du Pacte susceptibles de favoriser un avenir numérique inclusif en insistant sur la nécessité de traiter des questions relatives aux droits fondamentaux, de promouvoir la responsabilité des entreprises au moyen d'un instrument juridiquement contraignant, et de reconnaître les liens qui existent entre inclusion numérique et accès aux ressources essentielles telles que l'énergie, l'éducation et les soins de santé.

MOTS-CLÉS: Le Pacte numérique mondial, le fossé numérique, l'inclusion numérique, la transformation numérique, les droits numériques, les droits humains, la transition juste, l'instrument juridiquement contraignant, l'avenir du travail

KEY MESSAGES

- “Therefore, a more comprehensive approach to bridging the digital divide requires a broader consideration of how digital technologies can empower marginalised communities and promote human rights.”
- “The digital divide results not only from technical barriers to digital inclusion, but from the lack of access to quality education and health services, adequate housing and nutritious food.”
- “Promoting business accountability through a legally binding instrument (LBI) on business and human rights can ensure that digital transformation benefits all equitably, irrespective of income, gender, race, or other factors.”

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El Pacto Digital Global (GDC, por sus siglas en inglés), adoptado por la Asamblea General de las Naciones Unidas en 2024, pretende establecer un marco para una transformación digital equitativa, especialmente para los países en desarrollo. Aunque el GDC reconoce la importancia de los derechos humanos, la reducción de la brecha digital y la garantía de una transición justa, se enfrenta a importantes retos al abordar las desigualdades estructurales y aplicar mecanismos sólidos de rendición de cuentas. Este documento examina el potencial del GDC para fomentar un futuro digital inclusivo, destacando la necesidad de abordar los derechos fundamentales, promover la responsabilidad empresarial a través de un instrumento jurídicamente vinculante y reconocer la interconexión de la inclusión digital con el acceso a recursos esenciales como la energía, la educación y la sanidad.

PALABRAS CLAVES: *El Pacto Digital Global, la brecha digital, la inclusión digital, la transformación digital, los derechos digitales, los derechos humanos, la transición justa, el instrumento jurídicamente vinculante, el futuro del trabajo*

Introduction

The rapid expansion of the digital landscape presents unprecedented opportunities and challenges for developing economies. However, the current international framework is poorly equipped to ensure that developing countries' specific needs and priorities are met in real life. To respond to some of these concerns, the United Nations (UN) Secretary-General proposed the development of a Global Digital Compact (GDC – the Compact) that ensures data protection and upholds human rights applications in the digital sphere.¹ He also stressed the need to promote a clear accountability framework to address online discrimination and the proliferation of misleading information, including recognising the 'digital commons' as a globally accessible public good for bridging the digital divide and fostering inclusivity.

The GDC, adopted as an Annex to the Pact for the Future by the UN General Assembly in September 2024, is the outcome of several efforts developed by the UN Secretary-General, starting from the 2019 Report on The Age of Digital Interdependence, published by the High-Level Panel on Digital Cooperation² and the 2020 Roadmap for Digital Cooperation.³ Both documents considered the need to address human rights and digital technologies, particularly to ensure that human rights are meaningfully applied digitally and fill the gaps created by new technologies.⁴ They also recognised the significance of the UN Guiding Principles on Business and Human Rights, emphasising the shared responsibility of States and businesses in safeguarding

1 See: António Guterres, *Our Common Agenda: Report of the Secretary-General* (New York, United Nations, 2021).

2 High-level Panel on Digital Cooperation, *The Age of Digital Interdependence*, Report of the UN Secretary-General's High-level Panel on Digital Cooperation (2019).

3 Secretary-General of the United Nations, *Roadmap for Digital Cooperation* (June 2020).

4 High-level Panel on Digital Cooperation, *The Age of Digital Interdependence*, p. 16.

ding human rights.⁵ The Secretary-General also considered the role of the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to develop further guidance on applying human rights standards in the digital age.⁶

The GDC recognises the need to align digital policies with existing human rights law standards, including civil, political, economic, social, and cultural rights and fundamental freedoms :

This Compact is anchored in international law, including international human rights law. All human rights, including civil, political, economic, social and cultural rights, and fundamental freedoms, must be respected, protected and promoted online and offline. Our cooperation will harness digital technologies to advance all human rights, including the rights of the child, the rights of persons with disabilities and the right to development.⁷

This alignment is intended to provide a legal foundation for strengthening its potential to protect and uphold human rights in the digital age. It also highlights the increasing use of digital technologies in day-to-day life, acknowledging the need for national legislation on digital technologies that align with international human rights law, in particular safeguarding against online harms, protecting the most vulnerable, including rights of children and women, and promote an inclusive and human rights abiding digital environment for all.⁸

In line with these considerations, the GDC calls for holding digital technology companies and developers to uphold international human rights principles throughout the entire technology lifecycle, including design, development, deployment, and eventual decommissioning.⁹ It also recognises the need for these companies, including social media platforms, to actively prevent and mitigate online human rights abuses through rigorous human rights due diligence and impact assessments while providing avenues for effective remedy.¹⁰

Although the GDC has identified several actions to protect human rights in the digital sphere, there are still critical gaps related to interconnected issues. In particular, this document will consider the impact of the digital divide, the complexities arising from the just transition, including the future of work, and the critical role of education and digital literacy in empowering individuals in the face of rapid technological advancements. It will also consider the potential of a legally binding instrument on business and human rights to provide a robust framework for accountability and regulation in the rapidly evolving digital world, which is imperative for fostering inclusiveness to prevent the marginalisation of vulnerable groups.

5 *Ibid.*, p. 17.

6 Secretary-General of the United Nations, *Roadmap for Digital Cooperation*, p. 14.

7 United Nations General Assembly, *Pact for the Future, Annex: Global Digital Compact* (22 September 2024), para. 8(c).

8 *Ibid.*, para. 23.

9 *Ibid.*, para. 25(a).

10 *Ibid.*, para. 25(b).

Bridging the Digital Divide

Bridging the digital divide remains a central challenge for digital transformation, including the need to guarantee affordability, digital literacy and the availability of infrastructure. While the GDC acknowledges the importance of addressing this divide, the actions included in the Compact consider a three-level approach to closing the digital gap: (i) connectivity issues, (ii) increasing digital skills, and (iii) access to digital public goods and digital public infrastructure.

In line with these elements, the GDC considers that connectivity requires improving adequate and resilient digital infrastructure to connect to the Internet the 2.6 billion people that still lack access thereto.¹¹ It also highlights the need to include rural, remote and “hard-to-reach” areas and connect schools and hospitals and considers “the needs of people in vulnerable situations” and the objective of mainstreaming “a gender perspective in digital connectivity strategies.” The Compact also promotes the provision of digital skills, increasing access to technology and system interoperability, focusing on vulnerable groups, data collection to inform public policies, building digital competency in public institutions, preparing the workforce for the digital economy, and encourages the development and sharing of digital public goods.

Although these elements are essential, they do not go beyond mentioning the need to address “structural and systematic barriers to meaningful, safe and affordable digital connectivity for all women and girls.” This limitation to technical issues such as infrastructure development, skills training, and interoperability leaves outside a deeper understanding of digital transformation’s social and human rights dimensions, since existing structural barriers and inequalities can perpetuate exclusion and discrimination in the digital realm. For example, low-income communities, older adults, people living in rural areas, and historically discriminated populations continue to be disproportionately affected not only by the digital divide¹² but also by the lack of necessary resources to achieve their development needs, including social inclusion, jobs, health care and education.¹³

Therefore, a more comprehensive approach to bridging the digital divide requires a broader consideration of how digital technologies can be used to empower marginalised communities and promote human rights. Focusing on bridging the digital divide can be essential for addressing deprivations of the most vulnerable, including cooking fuel, housing, nutritious food and sanitation.¹⁴ Looking beyond the technical aspect of the digital divide requires looking at the essential elements of inequality and considering interlinked structural barriers that can impact digital inclusion and, more importantly, poverty reduction.

11 *Ibid.*, para. 11(b).

12 Cynthia K. Sanders and Edward Scanlon, “The Digital Divide Is a Human Rights Issue: Advancing Social Inclusion Through Social Work Advocacy”, *Journal of Human Rights and Social Work*, Vol. 6 (2021), p. 135.

13 *Ibid.*

14 See: United Nations Development Programme, *Global Multidimensional Poverty Index (MPI) 2024: Poverty amidst Conflict* (2024), p. 8. Available from <https://hdr.undp.org/system/files/documents/hdp-document/mpireport2024en.pdf> (accessed 31 October 2024).

Just Transition, the Future of Work and Digital Transformation

Although digital transformation offers opportunities for inclusion, it can also deepen disparities and discrimination, particularly for vulnerable groups. The GDC considers the need to ensure a just and equitable transition to a digital and green economy. The inclusion of sustainability in digital transformation aims to ensure that the shift to digital transformation is inclusive and equitable and leaves no one behind. Given that the quick pace towards digitalisation of the economy and its use in daily life can bring associated risks, it is necessary to consider the need to mitigate environmental degradation, potential job losses and economic disruption associated with technological advancements.

From the perspective of sustainable development, the United Nations Conference on Trade and Development (UNCTAD) has recognised that the current linear model of digital production, encompassing extraction, manufacturing, use, and disposal of technologies, generates a substantial environmental footprint that goes well beyond the ecological ramifications of greenhouse emissions.¹⁵ Even though the GDC recognises the need to guarantee equitable access to digital technologies, provide digital skills, and promote sustainability in the life cycle of digital technologies,¹⁶ this requires the effective implementation of the multilateral environmental agreements under the principles of international environmental law¹⁷ and integrating social progress, environmental protection, economic development, and the human rights implications of digital technologies.¹⁸

In this context, the concept of a “Just Transition” can serve as a framework for navigating the complexities of digital transformation, moving beyond looking only at minimising the environmental footprint of digital technologies but also focusing on social equity and human rights, ensuring that all share the benefits of digitalisation. The digital divide results not only from technical barriers to digital inclusion, but from the lack of access to quality education and health services, adequate housing and nutritious food. For instance, socio-demographic studies on access to digitalisation consider different variables related to educational levels, income, unfavourable work conditions, and cultural boundaries.¹⁹ In addition, the differentiation between urban and rural areas for measuring household access to information and communication technologies also considers the availability of electricity, drinkable water, medical care, schools and recreation as indicators.

The “just transition” concept emphasises the need for systemic changes that address all aspects of energy transformation, including social equity, environmental sustainability and integra-

15 United Nations Conference on Trade and Development (UNCTAD), *Digital Economy Report 2024: Shaping an Environmentally Sustainable and Inclusive Digital Future* (Geneva, United Nations, 2024), p. 9.

16 United Nations General Assembly, GDC, para. 8(i).

17 United Nations General Assembly, Resolution on the human right to a clean, healthy and sustainable environment, UN Doc. A/RES/76/300, 1 August 2022.

18 UNCTAD, *Digital Economy Report 2024*, p. 4.

19 See: Natalia Williams, “Overview on Global Digital Divide”, *Global Journal of Technology and Optimization*, Vol.13 (2022), p. 278.

tion to the digital transformation. Modern electricity has the potential to improve living standards and access to information and communication technologies (ICT). Although the number of people without electricity fell below one billion for the first time since 2015,²⁰ persistent disparities exist between rural and urban areas and across countries with varying income levels.²¹ The GDC did not address the issue of access to modern electricity as essential for enabling individuals to participate fully in the information society and access opportunities for development and digital inclusion. Limited access to energy can perpetuate inequalities and discrimination, excluding individuals and communities from the benefits of the digital age and hindering their full potential.

Moreover, achieving a just digital transformation requires focusing on quality work and addressing the digital divide. A just transition framework can mitigate the negative impacts and the asymmetries created by the unequal deployment of digital technologies by promoting equitable access to technological and digital skills training.²² The GDC has recognised the need to invest in upskilling and reskilling initiatives for workers impacted by digitalisation and automation, fostering lifelong learning.²³ Nonetheless, the modernisation of governance frameworks towards the evolving nature of the future of work will be required to reflect the changing employment landscape, address challenges posed by the gig and sharing economies, and protect workers' rights while ensuring fair labour practices.²⁴ Social inclusion linked to just transition should focus on creating new job opportunities in the digital economy, particularly for communities historically discriminated against or workers related to declining industries.

In summary, a fair digital transformation should prioritise equitable access to modern electricity as a fundamental enabler of digital inclusion, and investing in upskilling initiatives and modernising governance frameworks to ensure that all share the benefits of technological advancements. This holistic approach has been missing and should be considered to mitigate the risks of widening disparities and provide a sustainable and inclusive digital future for all.

'Digital rights' as human rights

Objective 3 of the Compact recognises the need to foster a digital space that respects, protects and promotes human rights. It urges digital technology companies and social media platfor-

20 Hannah Ritchie, Pablo Rosado, and Max Roser, "Access to Energy", *Our World in Data* (2019). Available from <https://ourworldindata.org/energy-access> (accessed 30.10.2024).

21 For example, the number of people without access to electricity in the sub-Saharan Africa have increased to historic highs, reaching almost 600 million people by the end of 2022, in International Energy Agency (IEA), *SDG7: Data and Projections* (Paris, 2024). Available from <https://www.iea.org/reports/sdg7-data-and-projections> (accessed 30.10.2024).

22 Caroline Farrell, Madeline Stano, "Is renewable power reaching the people and are the people reaching the power? Creating a just transition from the ground-up", in *Environmental Justice in the Anthropocene*, First Edition, Stacia Ryder, Kathryn Powlan, Melinda Laturi, Stephanie A. Malin, Joshua Sbicca, Dimistris Stevis, eds. (Routledge, 2021).

23 See United Nations General Assembly, GDC, para. 12.

24 See: International Labour Organization, *The Future of Work We Want: A Global Dialogue* (Geneva, 2017).

ms to increase transparency and accountability in their operations, particularly concerning user data, algorithms, and content moderation. It includes developing and publicly disclosing solutions to address potential harm from artificial intelligence (AI)-generated content, such as hate speech and discrimination.²⁵ To achieve an inclusive and rights-based digital transformation, a comprehensive human rights approach must be adopted that acknowledges the diverse needs and challenges across nations. This involves addressing the digital divide's root causes, including gaps in fundamental rights such as education and access to scientific progress, while also recognising the need for new human rights specific to the digital environment.²⁶

The need to reconcile digital transformation with human rights protection is essential. It is undeniable that achieving the goals of any instrument addressing digital change necessitates a robust commitment by States, businesses, and other stakeholders to implement human rights. These rights extend beyond traditional civil and political rights, like freedom of expression and privacy, but they should also encompass the socioeconomic prerequisites for meaningful digital participation: access to electricity, devices, networks, online services, and digital literacy.²⁷ The current debate, however, revolves around whether this can be achieved through the adaptive application of existing human rights frameworks or if the unique characteristics of the digital sphere demand the articulation of new, distinct digital rights.²⁸

An argument for developing 'new' digital rights stems from the nature of digital interactions and the rise of powerful digital monopolies. The ability of these entities to manipulate information flows, influence behaviour through data-driven algorithms, and amass vast repositories of personal data creates vulnerabilities that existing human rights frameworks may not adequately address.²⁹ Moreover, the digital realm presents new risks, such as the potential for algorithmic discrimination, the erosion of personal autonomy, and the manipulation of public opinion through misinformation campaigns. Hence, an open question remains, whether those phenomena may necessitate a new human rights framework that explicitly safeguards individuals and communities in the digital age. The GDC, however, seems to have relied on existing human rights frameworks without suggesting any further exploration of the need of further elaboration on the scope and content of such rights in the digital context.

The potential role of a Legally Binding Instrument on Business and Human Rights in the digital sphere

Promoting business accountability through a legally binding instrument (LBI) on business and human rights can ensure that digital transformation benefits all equitably, irrespective of in-

25 See: United Nations General Assembly, GDC, paras. 36(a), (b) and (c).

26 See: South Centre, Submission to the Global Digital Compact: Apply Human Rights Online, April 2023. Available from https://www.un.org/techenvoy/sites/www.un.org/techenvoy/files/GDC-submission_South-Centre.pdf (accessed, 01.11.2024).

27 *Ibid.*

28 See: Mohandas Pai and Nisha Holla, "Case for a Universal Declaration of Digital Rights", *Financial Express*, 30 January 2020. Available from <https://www.gateway-house.in/digital-rights/> (accessed 27.02.2025).

29 *Ibid.*

come, gender, race, or other factors.³⁰ The discussion of a legally binding instrument was proposed in Resolution 26/9 (A/HRC/26/9) to the Human Rights Council in 2014, which created the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (OEIGWG) with the mandate to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. Although the OEIGWG has not discussed the linkages between human rights and digital transformation, the LBI can support the objectives of the GDC by strengthening access to remedies for victims of human rights abuses and fostering international cooperation to hold businesses accountable for their digital operations.³¹

The LBI could establish clear legal obligations for businesses, ensuring that companies uphold human rights standards throughout their operations, including digital operations. This would be particularly crucial in addressing the complex challenges of cross-border data flows, algorithmic discrimination, and the exploitation of personal information, where existing regulatory frameworks often fall short. For example, the LBI could define “business activities” to encompass digital operations, mandate specific due diligence obligations for digital rights risks, strengthen provisions for access to remedy for digital rights violations, address the human rights implications of cross-border data flows, and promote transparency and accountability in algorithmic decision-making. Such an instrument could thereby significantly enhance accountability and enforcement mechanisms for holding businesses accountable for human rights violations committed in the digital sphere.³² This could include, for instance, remedies for individuals harmed by data breaches, algorithmic discrimination, or harassment.

In addition, the role of the legally binding instrument on business and human rights in the digital space can clarify the responsibilities of business enterprises and strengthen the enforcement of human rights in the face of rapid technological advancements. This would contribute to a future where the digital world empowers individuals and communities rather than exacerbating existing inequalities and vulnerabilities. Therefore, the legally binding instrument on business and human rights can provide a crucial framework for ensuring that companies respect human rights in their digital operations, fostering an inclusive digital environment that empowers all individuals and communities.

Conclusion

The Global Digital Compact can potentially support a more inclusive and equitable digital transformation for all. Nonetheless, it is also essential to acknowledge that it does not cover all the challenges presented by the digital age, including the fact that its objectives and actions lack concrete enforcement mecha-

³⁰ *Ibid.*

³¹ *Ibid.*

³² Anne Peters, Sabine Gless, Chris Thomale, Marc-Philippe Weller, “Business and Human Rights: Making the Legally Binding Instrument Work in Public, Private and Criminal Law”, MPIL Research Paper Series, No. 2020-06, Max Planck Institute (2020). Available from <https://gedip-egpil.eu/wp-content/uploads/2020/08/Business-and-Human-Rights-MPI-M.-Ph.-Weller.pdf> (accessed 01.11.2024).

nisms to develop a robust international framework for digital governance.

A genuinely inclusive digital transformation requires a comprehensive approach to human rights that addresses the root causes of the digital divide, fosters genuine participation of all, including the most vulnerable in developing countries, and promotes accountability for businesses operating in the digital sphere. The GDC can serve as a tool for contributing to a digital transformation that upholds human rights, but it cannot be a stand-alone initiative. Such a transformation requires other efforts and public policies towards just energy and digital transition. States should consider highlighting the critical role of access to quality education and health services, adequate housing and nutritious food, and energy to guarantee a real inclusive digital transformation.

Furthermore, developing a legally binding instrument on business and human rights can play a vital role in supporting the GDC’s objectives towards building a more comprehensive and robust international framework for digital governance. The LBI could clarify the responsibilities of companies, strengthen enforcement mechanisms in the digital sphere, and ensure accountability and access to remedies for victims of human rights violations in the digital space. A robust framework on business and human rights can ensure that digital technologies promote human rights and sustainable development and shape an inclusive digital future grounded in human rights.

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