

EVAP Ep 50 Meetali Jain

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SPEAKERS

Meetali Jain, Jaclyn Streitfeld-Hall



Jaclyn Streitfeld-Hall 00:12

Welcome to Expert Voices on Atrocity Prevention by the Global Centre for the Responsibility to Protect. I'm Jaclyn Streitfeld-Hall, Deputy Executive Director at the Global Centre. This podcast features one-on-one conversations with practitioners from the fields of human rights, conflict prevention, and atrocity prevention. These conversations will give us a glimpse of the personal and professional side of how practitioners approach human rights protection, and atrocity prevention, allowing us to explore challenges, identify best practices, and share lessons learned on how we can protect populations more effectively. Today, I'm joined by Meetali Jain, Director of the Tech Justice Law Project, a non-governmental organization that works with a collective of legal experts, policy advocates, digital rights organizations, and technologists, to ensure that legal and policy frameworks are fit for the digital age. Thank you for joining us today, Meetali. Thank you for having me Jaclyn. Meetali, you've had a remarkable career spanning litigation, teaching, policy, advocacy and campaigning, including founding the Tech Justice Law Project. Can you give us a bit more about what led you to starting the organization and why its work is important? Sure.

M**Meetali Jain 01:22**

You know, I like to, when I reflect back on the trajectory of my career, it really hits me that I kind of accidentally became a tech reform advocate and litigator. I started off originally, my training is as a human rights and civil rights lawyer, and for many years, that's where I was, what I was doing. It was really after the 2016 presidential election when I think many households in America kind of woke up to this idea of electoral disinformation and what that means, and interference by, you know, online actors, that I started to really pay attention to this new dimension affecting many of the issues we care about. And so my entry point into this world was really through the lens of disinformation, and that led me to focusing on tech policy, and how we might reform tech policy so as to ensure the accountability of some of these really unconstrained actors in, frankly, the most, the wealthiest sector that we've ever seen in human history. And I stayed in tech policy for a couple of years, I left it, or at least exclusively focusing on tech policy. I left that world because I started to get a little frustrated with the fact that the tech industry, perhaps predictably, was funding the lobby, their lobbyists, to go into various legislatures, to go into Congress, and to really use a lot of tactics to defeat legislation. Any sort of legislation would be defeated before it ever really made it, you know, to the finish line. And if it did, if something did make it to the finish line, then it was immediately sued in court on constitutionality grounds. And so understanding that this is the space, and regardless of presidential administration, I should say. So understanding that this was the policy terrain in which we operated, I started to feel that really a lot of the accountability work in the tech space was happening in the courts, And that there needed to be a more dedicated focus on the courts. And that really was the genesis of the Tech Justice Law Project, to kind of come back to my litigation skills, which I had left for many years, and to think about how we could support litigation that was already in the courts, either brought by private attorneys or brought by regulators like state AGs, and support them with connecting them to experts, or bringing amicus briefs to bring in the perspectives of other affected stakeholders into litigation, and really trying to do what we could to make those efforts as robust as possible. We didn't plan to directly litigate ourselves so soon. But a year in, we were contacted by Megan Garcia, who now is a client, who basically informed me that her son had, she believed that her son had been sexually groomed online, and that she was looking for an attorney to take on her case, and so that really catapulted us into the world of direct litigation much sooner than we anticipated.

J**Jaclyn Streitfeld-Hall 04:50**

How did your time working with communities impacted by surveillance and racial profiling shape your perspective on the role of law and technology and protecting, or even undermining human rights?

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Meetali Jain 05:03

Yeah, you know, it's interesting, because this was post 9/11, when I think things fundamentally changed in the US from a civil rights landscape. And I think that, you know, I started to understand it, certainly wasn't the first time, but again, we were seeing in our history the law being used as leverage to further weaponize against communities that really were the most vulnerable, brown and black communities across the country. And for me, it was very personal, because I am of South Asian origin, and a lot of people in my communities, a lot of elders, a lot of people were being targeted. And so, understanding that the law, and the way that the law is situated, particularly vis a vis immigrants, and people of immigrant background, was being used in that way, was really distressing. It furthered my resolve, though, to kind of use my access to the legal profession to support their rights. I think what we've seen, you know, in those days, it was really the government surveilling communities, you know, who were being racially profiled. And I think in the interim two decades, what we've seen is that that function has been, frankly, outsourced or done in partnership with, the largest technology companies on Earth. And so there really is, I think, at this point, a dual focus, not just on government actors who are surveilling, but on corporate actors who are surveilling us, you know, 1000s of times a day.

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Jaclyn Streitfeld-Hall 06:46

I think that's a, the idea of corporations surveilling us 1000s of times a day is, you know, a good lead into my next question, which is, you know, how can lessons from your legal and advocacy background inform strategies for atrocity prevention and protecting communities before large scale violence occurs? Because so much of you know, surveillance seems very innocuous on paper. You know, we all have these devices in our pockets, and yet these can become tools for perpetrating atrocities, informing governments, you know, who aim to perpetrate atrocities and so forth.

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Meetali Jain 07:32

I think my response to that would be multifold. And one thing I should say about my background, when I entered this field, it was really, I was led down this path because I understood how technology was impacting societies at large. And of course, my experience most closely had been of the US presidential election, that led me though to doing investigations in the broader international contexts, and particularly in global south contexts, where you know this technology is not just, you know, electoral disinformation or misinformation, but actually genocidal in both tone and in effect, in terms of online hate speech and violence, leading to offline violence. And specifically post-Myanmar and the genocide that unfolded there, largely online or instigated online. We were looking at a very similar kind of setup that was unfolding in the northeast of India against Rohingya and other Muslims in in the state of Assam. And we sounded the alarm. We did, you know, some pretty deep studies into the prevalence of this online, on Facebook in particular, at that time, and raised the alarm with Facebook and with their leadership team, their human rights team, and it kind of fell on deaf ears. I mean, you know, we were able at that point to just get as far as having them make us an offer to be a trusted partner and to work with them on content moderation, which was kind of ridiculous given that we were at the time, I was working at a different nonprofit, that we

were such a small team doing this work, you know, getting an offer like this from one of the most well resourced companies that we've ever seen. And so that really, I think, underscored for me, how much impunity these companies operate with when it comes to how their tools are, not just used to surveil people and collect data, but then also to moderate harmful content at their own choosing, when they wish, how they wish, and certainly to capitulate to powerful political interests, where those arise. I mean, those were early days. This is back in 2018, 2019, before we understood that, you know, trying to negotiate with these companies was really a fool's errand. And I think to your question about atrocity prevention, you know, I think that there's a number of things ideally that I would love to see that I think could prevent a lot of these tools from being used in the ways that they have and that we've seen throughout the last decade or two. Number one is just having strong data protection regimes where people's data is not being collected or used in ways that could potentially, you know, work against them. And right now, for example, in the US, we don't have any federal data privacy law. At best, we have a few states with data privacy on the books, and then we have under enforcement. But frankly, even Europe, you know, a place that has the strongest data privacy regulation in the world, the GDPR, even that is woefully under enforced. And so I think we just need to strengthen our understanding of data privacy, not just at an individual level, but what this means collectively. In terms of being able to monitor and assess entire populations. I think another aspect of this that's really important for atrocity prevention is proper content moderation. Thinking about the hate speech and how you can, you know, I think these companies love to say, well, you can't say that this caused this. But frankly, you know, when you see certain things unfolding online, it's not long before you see those very things unfolding offline. And so I think just having stronger policies at the corporate level that are enforceable would make such a difference. And to be honest, we're not at that point, largely because these companies enjoy a lot of protections vis a vis the First Amendment in this country. And they, frankly, don't care about a lot of jurisdictions outside the US or a lot of non English speaking populations. And so it's been a real challenge to try to advocate on behalf of communities in other societies, you know, much less even here in the US. But I do think that that's something we need. And then I think, you know, we need to be able to regulate algorithms. You know, speech is reach. And the reach of these companies is made possible because of the algorithms that are supercharging, you know, the most salacious content to go viral. And I think, again, it's been challenging to try to get any sort of meaningful regulation or accountability for algorithms, because that's seen very much as, you know, a technical thing that's within the domain of the companies, but I think we need to be able to get our heads around it, and get lawmakers and judges to really feel like they are empowered to regulate in this domain. And now, of course, I mean that, you know, all of this kind of is in the context of social media, but now with AI, I mean, it's social media on steroids from what I've seen in the last year and a half. And so I think we really, really need to get out ahead of the curve and make sure that we're not in a position 10 years from now like we are with social media saying what happened?



Jaclyn Streitfeld-Hall 13:38

Picking up on that, do you think there are any promising, you know, legal policy or grassroots strategies for addressing threats related to disinformation and algorithmic amplification?

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Meetal Jain 13:53

I think that the best strategies that I've seen kind of being very conscious of a US legal frameworks, at least in the US, has been to try to intervene at the level upstream of how these companies are designing their algorithmic products. You know, whether that's a large language model in the generative AI context, or it's the algorithms in the social media context. And we have a Supreme Court that, for all its flaws politically, has made some comments that suggest that given the right facts and the right case, they might be willing to look at this issue of algorithms and algorithmically amplified content in a way that doesn't enjoy full First Amendment protection. That's at least the suggestion that was made in a case from a couple of years ago that received some support across the bench and across the political aisle. So I think that's the best case we have of trying to regulate these things at the level of design and deployment, as opposed to at the level of content. The other reason why I don't think that intervening at the level of content is very effective, much putting aside the legal considerations, is that you're playing Whack-a-Mole. One harmful thing will come up, then another thing will come up, then another thing. And so, you know, in the early days, when we did investigations in India, in other jurisdictions where they were experiencing a lot of hate speech, we were constantly documenting, constantly documenting and providing those spreadsheets to Facebook. And you know, again, maybe they would take a third of those down, but then they would leave the rest up. And so it was just constant, you know, that we were playing that role, and it's just not sustainable, and it's not the most effective use, I think, of advocates time. Outside the US I think that there's more latitude to focus on moderation from a legal standpoint, but I even where there isn't, you know, First Amendment considerations in other countries, I still encourage people to think about design, as the point of intervention, because it's going to have the most systemic impact, as opposed to thinking about it at the level of content and content moderation. And so, you know, we've started, I think there's the there's a number of networks, particularly of US, UK, European advocates, coming together. I truly believe that we need to kind of go more global and bring more equity to our networks and and have more truly global kinds of configurations where we're talking to one another. We're going to be convening a very small group of tech accountability litigators from around the world and really focusing on global south or global majority countries, in the next couple months, and we're hoping that that can catalyze an ongoing set of conversations. I mean, you know, my feeling is these companies are transnational in their footprint. We need to be too.

J

Jaclyn Streitfeld-Hall 17:11

I feel like that opened up so many questions I have on on how to engage with tech companies and both from like a grassroots civil society level, as well as how governments can better engage with tech companies. You know, some advocates we've seen have argued for kind of a duty of care for technology companies. Do you think that concept could realistically shape atrocity prevention frameworks in this regard, or is there something else that would kind of help incentivize them to do a more systemic change?

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Meetali Jain 17:46

I have been a fan of duties of care and loyalty, and they are slightly different. I think the reality, though, of how likely it is for something like a duty of care, or a duty of loyalty to be adopted into law is slim. But I do think it's kind of the most spacious to not have to enumerate exactly what that duty is, but to kind of say that ultimately you have a duty to the people who are using your product. That said, I have talked to other litigators who say, Well, look to the extent that there's already a duty, in particular if you're using certain legal frameworks, there's already an inherent duty that a company has to its consumers. Maybe we don't need that. Maybe it's redundant. Maybe it's less robust than what the duty in the, in the law is. And so I think there's, you know, different views about it, but I think ultimately we need to have something that allows us to hold companies to account as new harms arise in new contexts, because we can't possibly think about all the ways in which they're going to breach that, that duty, but to have a duty, you know, much like a patient, like a physician patient, kind of duty or other duties that we've seen, you know, in other aspects of society. I think would be really helpful to just for them to know that they can't act with impunity. You know, the other thing that I know in my previous life that we focused a lot on is really thinking about a robust legal framework for corporate accountability, you know, business and human rights frameworks. I've not been close to that world in a while, but I know that at the point at which the Myanmar genocide occurred, there was a lot of talk about like how a framework like that could have been useful, and that basically Zuckerberg got away with just saying, I'm sorry, we should have done better.

J

Jaclyn Streitfeld-Hall 19:57

Which is a super unsatisfactory answer and response. I mean, I know, with Myanmar and Ethiopia, there have obviously been legal cases launched against, I guess, Facebook at the time, and the Myanmar case and Meta as it is now, with the Ethiopia case, regarding how social media was used to target particular groups of people, particular individuals, and kind of help perpetuate the atrocities that happened there. But it doesn't seem to, I guess, the consequences of that accountability, if it does come to fruition through the cases, doesn't seem to be enough of a motivating factor for them to, you know, really significantly change the way they operate, from what I've seen, at least.

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Meetali Jain 20:50

Yeah, you know. And this is my own, a glimpse into my own love, hate relationship with the international human rights world that, you know, I both think it's incredibly generative and, you know, forward thinking in some regards, but it's also soft law. It's not enforceable. And I think ultimately, when you're dealing with companies of this size and stature and with this many resources, you know, it's really hard to kind of leverage the might of the law against them, if it's not hard law, if it's not enforceable, you know. And I think with the Myanmar case, I know the attorneys who are representing The Gambia against Myanmar at the ICJ, the International Court of Justice, and then, as part of that case, they, I believe, subpoenaed Facebook to produce their documents around genocidal hate speech posted by Myanmar generals, and my understanding is that they were able, through some interesting legal maneuvers to get some of that information, but I think it was both Facebook and Twitter, if I'm not mistaken, then Twitter definitely not X. And they were able to get some of that information through an out of court settlement. But again, I think the ICJ case against Myanmar is ongoing, and it's unclear what the timeline of that is going to be. And then, you know, even when there is a ruling, you know, how enforceable is it going to be? How are people going to use it With the Ethiopia case, I mean that it has been interesting to see how that has played out in Kenyan courts. And the one of the attorneys bringing that case is actually going to be part of this global convening that I mentioned. So I am hoping to learn more from her and to understand how they brought that case and kind of what the current status of it is. I do think the Kenyan courts have been really interesting, not just on that case, but then also in receiving the cases of the outsourced content moderators who've brought a number of cases of like, the harm they've experienced online in doing their job.

J

Jaclyn Streitfeld-Hall 23:16

Yeah, I think the content moderation side and secondary trauma, or even, you know, just the trauma experienced in witnessing what's happening while you're moderating content is such a fascinating new dimension of our work. I mean, it should have been central to atrocity prevention work for a long time, but I think it's often overlooked, and the fact that it's now playing out in in courts is really fascinating to see.

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Meetali Jain 23:47

I agree, I agree, and I think it makes sense that the US is not leading on that front, given how weak our unions, and our state of like, workers really is. And I love to see, you know, my secret, maybe this is my projection, but my secret hope, and to some extent, like I think empirically rooted belief, is that we're going to see some really interesting movement on accountability coming out of global majority countries, not necessarily Europe, not necessarily, you know, the US or North America even, but really one of these other countries where there's just more appetite, perhaps, and some semblance of the rule of law to really take these matters up robustly. At least that's my hope. We can still hope. We can still hope. And you know, I have a background, I spent many years in South Africa, in the South African legal system, and, you know, I was always just so impressed with, I mean, there's a lot of flaws, no country is without them, and no legal system is without them. But I was just really impressed, not just with the visionary, the legal frameworks, including the constitution that we don't have, but also the, you know, at least somewhat workable rule of law that exists, and the quasi-independence of regulators who are still able to do their job. And so, you know, part of what I really want to do is to encourage people to really start bringing cases in different jurisdictions, so that not everybody is relying upon Europe or the UK or the US to really nail this. I think we need all of us.

J

Jaclyn Streitfeld-Hall 25:37

I have one more question on kind of online spaces, which is kind of rooted in your work, which is, you know, you work with several youth led initiatives focused on building safer online space. What role do you see for young people in reimagining tech governance, and linking it to atrocity prevention and human rights?

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Meetali Jain 25:58

I think they're central, to be very honest. I think this is the first generation of digital natives that we've had. And if we're not bringing directly impacted communities into the equation and giving them a seat at the table, then I'm not really sure what we're doing. I mean, you know, I often drop on my own experience as a parent to inform some of what I do. And, you know, I've just been really amazed by the youth that I work with, their level of sophistication about solutions. Well, harms, because in many cases, their lived experiences for them, but also solutions. You know, this is, if I can generalize, these are folks who, you know, they don't want to get rid of technology wholesale. They recognize the technology is here to stay. They recognize the value of technology that can help, you know, people flourish, but they also see the harms. And so I think that they just have a nuance from their own experiences that many others may not. And if I could just draw upon one experience, when Megan Garcia came to us, you know, talking about the fact that her son had taken his life after extensive engagement with AI chatbot, on the Character.AI platform. I remember hanging up the phone and kind of doing some research, like, what is Character AI, like, what is an AI Chatbot? You know, the last I'd remembered, it was kind of in the early days of those, you know, like, rule-based chatbots, where it was like, you know, like customer service, how can I help you? But like, you don't get very far with Chatbot. So I had no idea what she was talking about. And as I did the research, you know, I started reaching out to some organizations, and probably predictably, it was the youth organization that I contacted who was like, Oh yeah, we're working on this. We've known about this because this is where our peers are at. And that made complete sense to me, and we've been working with them since. They're leading a coalition around model legislation, around engagement with Congress. And I'm just so pleased to see that, because it makes sense that they're leading the path forward on how we think about technology.

J

Jaclyn Streitfeld-Hall 28:18

That's incredible. The sophistication of youth engagement with technology and online spaces is really something we can't take for granted. And I think you've kind of framed it right, of how they're the first generation of tech nativists. And I think those of us who were kind of in that that middle generation where, we had tech, but it wasn't so central to our lives, still can't fully wrap our minds around, you know, the kinds of inputs that youth today have, you know, encountered their entire lives?

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Meetali Jain 28:53

Yeah. I mean, I've had to do, and I think my colleagues have had to do a fair amount of testing to try to understand what many of our youth colleagues already know from their own experience or from what they've heard. And so I feel that we're playing catch up. It doesn't make sense that we're the ones answering congressional questions about what to do.

J

Jaclyn Streitfeld-Hall 29:17

You know whether it's youth or other organizations you've engaged with, how do you see civil society organizations, kind of, I guess, the reverse of what we've been talking about, really leveraging tech to advance their work, whether it be documenting abuses, mobilizing communities, amplifying voices, or even other areas, you know, we don't think about on a daily basis.

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Meetali Jain 29:39

Again, I have not been particularly close to this, but I know that there's been incredible strides in the Human Rights documentation sphere, using technology to really be able to document human rights abuses. And that, I think is very welcome, because it's already a difficult task to engage in that documentation. And so I think that's incredible. I you know, again, also remember that a lot of organizing and social movements have been catalyzed by technology, and so I definitely don't want to throw that out as what we've seen historically, you know, with like the Arab Spring and so forth, as a real benefit of technology used well. And so I do think, like organizing documentation to some extent connection, although I do think the tech bros over emphasize that in ways that are really unhealthy, but to some extent, I think connection is also true.

J

Jaclyn Streitfeld-Hall 30:45

I know you touched on this a little bit earlier. You gave me kind of a list of a few things that you think are key to atrocity prevention, including strong data protection, and a few different ideas around content moderation and algorithms. But if you could give one piece of advice to policymakers who are designing the next generation of tech regulation with atrocity prevention in mind, what would it be?

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Meetali Jain 31:12

To not forget that the communities that are most impacted by these tech products are often communities that are outside the US. And that they play a really important role here on the home turf of these companies, in holding these companies to account, and that the rest of the world is expecting us to discharge that responsibility thoroughly and well.

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Meetali Jain 31:48

I feel that there was more of a focus on atrocity prevention vis a vis these companies in previous years, and I feel like we've lost that to some extent, and I would love to see that come back, because it doesn't mean that the just the fact that we haven't heard about it doesn't mean that the atrocities don't exist, or that the technology is not being used to harm communities. I think that's still true, but it's just hasn't really, found its way into the media given everything else that's happening. And you know, one jurisdiction where I stay in very close touch with is India, and I work with a lot of Indian organizations, both in the diaspora as well as in India. And, you know, I think the way in which we've seen the rise of autocratic power and the way in which technology is used as a matter of course, as part of their ascension to power and maintenance of power. I think we really need to wrestle with that more, and we shouldn't lose that focus.

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Jaclyn Streitfeld-Hall 32:51

Thank you for joining us for this episode of expert voices on atrocity prevention. If you enjoyed this episode, we encourage you to subscribe to the podcast on Apple podcasts, SoundCloud or Spotify, and we'd be grateful if you left us a review for more information on the Global Centre's work on RTP, mass atrocity prevention and populations at risk of mass atrocities. Visit our website at [WWW dot global. R the number two, P .org](http://WWW.dot.global.R.the.number.two,P.org), and connect with us on Facebook, Bluesky or LinkedIn at GCR2P.