Privacy International's oral statement to the Human Rights Council 31st ordinary session,

9 March 2016

Inter-active dialogue with the UN Special Rapporteur on the right to privacy

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Mr. President,

Privacy International welcomes the opportunity to participate in this first inter-active dialogue with the Special Rapporteur on the right to privacy. We regret however the Rapporteur's late submission of his report.

When establishing this mandate last year, the Council expressed deep concerns at the negative impact that state surveillance may have on the exercise and enjoyment of human rights, most notably the right to privacy.

Regretfully, despite increased attention by the UN on this issue, governments around the world adopt or propose new laws that give wider surveillance powers to state security agencies beyond what is permitted under existing human rights standards. In our written statement we have highlighted some of these laws from China, France, Kenya, the Netherlands, Pakistan, Poland, Switzerland and the United Kingdom.

Often framed as responses to terrorist threats, these surveillance laws support an approach to security and counter-terrorism that treats the privacy of individuals as an impediment to the pursuit of vaguely defined national security aims - wrongly arguing that we can have either security or privacy, but not both. This approach risks widening the gap between States' legal and technological capabilities and the applicable international human rights standards.

The fact that advancements in surveillance technologies make possible, and increasingly cheap, to intercept, store and analyse everyone's digital communications does not mean that it is legitimate to do so. Mass surveillance, including blanket, indiscriminate data retention of communications data, treats everyone as potential suspects.

From a human rights perspective, suspicionless surveillance falls short of the requirements of legality, necessity and proportionality that must underpin any lawful interference with someone's privacy.

As affirmed by the UN General Assembly and Human Rights Council, international human rights law provides a clear and universal framework to respect and protect the right to privacy, including in the context of modern communications surveillance. Using existing human rights standards, UN experts, regional courts and NGOs have challenged surveillance laws, policies and practices that violate human rights.

We would like to ask the Special Rapporteur how he intends to develop his capacity to review new surveillance laws and bills to assess their compliance with the right to privacy and to develop specific recommendations.

Thank you for your attention.