United Nations A/C.3/69/L.26/Rev.1

General Assembly

Distr.: Limited
19 November 2014

Original: English

Sixty-ninth session
Third Committee
Agenda item 68 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Austria, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Indonesia, Ireland, Liechtenstein, Luxembourg, Malta, Mexico, Netherlands, Nicaragua, Norway, Paraguay, Peru, Poland, Portugal, Russian Federation, Slovenia, Spain, Switzerland and Uruguay: revised draft resolution

The right to privacy in the digital age

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights[1] and relevant international human rights treaties, including the International Covenant on Civil and Political Rights[2] and the International Covenant on Economic, Social and Cultural Rights,[2]

Reaffirming further the Vienna Declaration and Programme of Action,[3]

Recalling its resolution 68/167 of 18 December 2013 on the right to privacy in the digital age,

Welcoming the adoption by the Human Rights Council of resolution 26/13 of 26 June 2014 on the promotion, protection and enjoyment of human rights on the Internet,[4]

---

[1] Resolution 217 A (III).
[2] See resolution 2200 A (XXI), annex.
[3] A/CONF.157/24 (Part I), chap. III.
[4] See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53* (A/69/53), chap. V, sect. A.

Please recycle

Welcoming also the work of the Office of the United Nations High Commissioner for Human Rights on the right to privacy in the digital age, noting with interest its report on the subject,[5] and recalling the panel discussion on the right to privacy in the digital age held during the twenty-seventh session of the Human Rights Council,

Noting the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism[6] and the report of the Special Rapporteur of the Council on the promotion and protection of the right to freedom of opinion and expression,[7]

Noting with appreciation general comment No. 16 of the Human Rights Committee on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation, while also noting the vast technological leaps that have taken place since its adoption,[8]

Recognizing the need to further discuss and analyse, based on international human rights law, issues relating to the promotion and protection of the right to privacy in the digital age, procedural safeguards, effective domestic oversight and remedies, the impact of surveillance on the right to privacy and other human rights, as well as the need to examine the principles of non-arbitrariness and lawfulness, and the relevance of necessity and proportionality assessments in relation to surveillance practices,

Noting the holding of the Global Multi-stakeholder Meeting on the Future of Internet Governance, "NETmundial", in São Paulo, Brazil, in April 2014, and recognizing that effectively addressing the challenges relating to the right to privacy in the context of modern communications technology will require an ongoing, concerted multi-stakeholder engagement,

Noting also that the rapid pace of technological development enables individuals all over the world to use new information and communication technologies and at the same time enhances the capacity of governments, companies and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights, in particular the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, and is therefore an issue of increasing concern,

Reaffirming the human right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, and recognizing that the exercise of the right to privacy is important for the realization of the right to freedom of expression and to hold opinions without interference and the right to freedom of peaceful assembly and association, and is one of the foundations of a democratic society,

---

[5] A/HRC/27/37.

[6] A/69/397.

[7] A/HRC/23/40 and Corr.1.

[8] *Official Records of the General Assembly, Forty-third Session, Supplement No. 40* (A/43/40), annex VI.

Stressing the importance of full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information and democratic participation,

Noting that while metadata can provide benefits, certain types of metadata, when aggregated, can reveal personal information and can give an insight into an individual's behaviour, social relationships, private preferences and identity,

Emphasizing that unlawful or arbitrary surveillance and/or interception of communications, as well as unlawful or arbitrary collection of personal data, as highly intrusive acts, violate the right to privacy, can interfere with the right to freedom of expression and may contradict the tenets of a democratic society, including when undertaken on a mass scale,

Noting in particular that surveillance of digital communications must be consistent with international human rights obligations and must be conducted on the basis of a legal framework, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory and that any interference with the right to privacy must not be arbitrary or unlawful, bearing in mind what is reasonable to the pursuance of legitimate aims, and recalling that States that are parties to the International Covenant on Civil and Political Rights must undertake the necessary steps to adopt laws or other measures as may be necessary to give effect to the rights recognized in the Covenant,

Emphasizing that States must respect international human rights obligations regarding the right to privacy when they intercept digital communications of individuals and/or collect personal data and when they require disclosure of personal data from third parties, including private companies,

Recalling that business enterprises have a responsibility to respect human rights as set out in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework,[9]

Deeply concerned at the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, as well as the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights,

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms frequently face threats and harassment and suffer insecurity as well as unlawful or arbitrary interference with their right to privacy as a result of their activities,

Noting that while concerns about public security may justify the gathering and protection of certain sensitive information, States must ensure full compliance with their obligations under international human rights law,

Noting also in that respect that the prevention and suppression of terrorism is a public interest of great importance, while reaffirming that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights, refugee and humanitarian law,

---

[9] A/HRC/17/31, annex.

1. *Reaffirms* the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, as set out in article 12 of the Universal Declaration of Human Rights[1] and article 17 of the International Covenant on Civil and Political Rights;[2]

2. *Recognizes* the global and open nature of the Internet and the rapid advancement in information and communications technologies as a driving force in accelerating progress towards development in its various forms;

3. *Affirms* that the same rights that people have offline must also be protected online, including the right to privacy;

4. *Calls upon* all States:

(a) To respect and protect the right to privacy, including in the context of digital communication;

(b) To take measures to put an end to violations of those rights and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;

(c) To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;

(d) To establish or maintain existing independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic oversight mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data;

(e) To provide individuals whose right to privacy has been violated by unlawful or arbitrary surveillance with access to an effective remedy, consistent with international human rights obligations;

5. *Encourages* the Human Rights Council to remain actively seized of the debate, with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy, and to consider the possibility of establishing a special procedure to that end;

6. *Decides* to remain seized of the matter.