

UN Draft on Privacy

The General Assembly,

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

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

Reaffirming also the Vienna Declaration and Programme of Action,

Noting that the exercise of human rights, in particular the right to privacy on the Internet, is an issue of increasing interest and importance as the rapid pace of technological development enables individuals in all regions to use new information and communications technologies [A/HRC/RES/20/8], and at the same time enhances the capacity of Governments, companies and individuals for surveillance, decryption and mass data collection, which may severely intrude with a person's right to privacy,

Welcoming the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression submitted to the Human Rights Council at its twenty third session, on the implications of the surveillance of private communications and the indiscriminate interception of the personal data of citizens on the exercise of the human right to privacy,

Reaffirming the human right of individuals to privacy and not to be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, and the right to enjoy protection of the law against such interferences and attacks [new, based on article 17 of the ICCPR], and recognizing that the exercise of the right to privacy is an essential requirement for the realization of the right to freedom of expression and to hold opinions without interference, and one of the foundations of a democratic society [new, based on the report A/HRC/23/40 (para 24) of the Special Rapporteur],

Noting that while concerns about national security and criminal activity may justify the gathering and protection of certain sensitive information, States must ensure full compliance with international human rights [statement of the High Commissioner for Human Rights, Navi Pillay, on September 20th, 2013],

Emphasizing that illegal surveillance of private communications and the indiscriminate interception of personal data of citizens constitutes a highly intrusive act that violates the rights to freedom of expression and privacy and threatens the foundations of a democratic society [new, based on the report A/HRC/23/40 (para 81) of the Special Rapporteur],

Deeply concerned at human rights violations and abuses that may result from the conduct of extra-territorial surveillance or interception of communications in foreign jurisdictions [new, based on the report A/HRC/23/40 (para 87) of the Special Rapporteur],

Recalling that States must ensure that measures taken to counter terrorism comply with international law, in particular international human rights, refugee and humanitarian law [A/HRC/RES/19/19, OP1],

Stressing also the importance of the full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information and democratic participation [PP6 of A/HRC/RES/12/16, Freedom of opinion and expression],

1. Reaffirms the rights contained in the International Covenant on Civil and Political Rights, in particular the right to privacy and not to be subjected to arbitrary or unlawful interference with privacy, family, home or correspondence, and the right to enjoy protection of the law against such interference or attacks, in accordance with article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights [new] ;

2. Recognizes the global and open nature of the Internet as a driving force in accelerating progress towards development in its various forms [OP2 of A/HRC/RES/20/8] ;

3. Affirms that the same rights that people have offline must also be protected online, in particular the right to privacy, including in the context of the surveillance of communications [based on OP1 of A/HRC/RES/20/8] ;

4. Calls upon all States :

(a) To respect and ensure the respect for the rights referred to in paragraph 1 above [new, based on OP4a) of A/HRC/RES/12/16] ;

(b) To take measures to put an end to violations of these rights and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented [new, based on OP4b) of A/HRC/RES/12/16] ;

(c) To review their procedures, practices and legislation regarding the extra-territorial surveillance of private communications and interception of personal data of citizens in foreign jurisdictions with a view towards upholding the right to privacy and ensuring the full and effective implementation of all their obligations under international human rights law [based on the report A/HRC/23/40 (paras 64 and 83) of the Special Rapporteur] ;

(d) To establish independent oversight mechanisms capable to ensure transparency and accountability of State surveillance of communications [based on the report A/HRC/23/40 (para93) of the Special Rapporteur] ;

5. Requests the United Nations High Commissioner for Human Rights to present an interim report on the issue of human rights and indiscriminate surveillance, including on extra-territorial surveillance, to the General Assembly at its sixty-ninth session, and a final report at its seventieth session, with views and recommendations, to be considered by Member States, with the purpose of identifying and clarifying principles, standards and best practices on the implications for human rights of indiscriminate surveillance [new] ;

6. Decides to examine the question on a priority basis at its sixty-ninth session, under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms" of the item entitled "Promotion and protection of human rights" [new] ."