

Monday, June 10, 2013, Agenda item 8:/General Debate/

Civil Society Statement read by the Association for Progressive Communications to the Human Rights Council on the impact of State Surveillance on Human Rights addressing the PRISM/NSA case.

Thank you Mr. President. I speak on behalf of several civil society organizations from around the world. We express strong concern over recent revelations of surveillance of internet and telephone communications of US and non-US nationals by the government of the United States of America and the fact that US authorities makes the results of that surveillance available to other governments such as the United Kingdom. Of equal concern is the indication of apparent complicity of some US-based Internet companies with global reach.¹ These revelations suggest a blatant and systematic disregard for human rights as articulated in Articles 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR), as well as Articles 12 and 19 of the Universal Declaration of Human Rights.

Just last year the Council unanimously adopted Resolution 20/8, which "Affirms that the same rights that people have offline must also be protected online, in particular freedom of expression ..." ² But during this session the Special Rapporteur on Freedom of Expression, Mr. Frank La Rue, reported (A/HRC/23/40) worrying new trends in state surveillance of communications with serious implications for the exercise of the human rights to privacy and to freedom of opinion and expression. The Special Rapporteur notes that inadequate and non-existent legal frameworks "create a fertile ground for arbitrary and unlawful infringements of the right to privacy in communications and, consequently, also threaten the protection of the right to freedom of opinion and expression". ³

The application of surveillance mechanisms to the heart of global digital communications drastically threatens the protection of human rights in the digital age. As Frank La Rue notes in reference to such actions: "This raises serious concern with regard to the extra-territorial commission of human rights violations and the inability of individuals to know that they might be subject to foreign surveillance, challenge decisions with respect to foreign surveillance, or seek remedies." This recent case is an example of human rights violations specifically relevant to the Internet, and one foreshadowed in the Council's 2012 Expert Panel on Freedom of Expression and the Internet.

We call for protection of those who have made these violations public. As Mr La Rue notes, laws "must not be used to target whistleblowers ... nor should they hamper the legitimate oversight of government action by citizens. "We urge States protect those whistleblowers involved in this case and to support their efforts to combat violations of the fundamental human rights of all global citizens. Whistleblowers play a critical role in promoting transparency and upholding the human rights of all.

We call on the Human Rights Council to act swiftly to prevent the creation of a global Internet based surveillance system by:

- 1) convening a special session to examine this case
- 2) supporting a multistakeholder process to implement the recommendation of Mr La Rue that the Human Rights Committee develop a new General Comment 16 on the right to privacy in light of technological advancements, and,
- 3) requesting the High Commissioner to prepare a report that:

1 Such as Microsoft, Yahoo, Google, Facebook, PalTalk, AOL, Skype, YouTube, and Apple. From http://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497_story.html

2 http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8

3 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.40_EN.pdf

- a) formally asks states to report on practices and laws in place on surveillance and what corrective steps will they will take to meet human rights standards, and,
b) examines the implications of this case in in the light of the Human Rights Council endorsed United Nations Guiding Principles on Business and Human Rights, the "Protect, Respect and Remedy" Framework of A/HRC/RES/17/4.

Statement endorsed by:

Access, International
Association for Progressive Communications (APC), International
Center for Technology and Society (CTS/FGV), Brazil
Global Voices Advocacy, International
IT for Change, India
Bolo Bhi, Pakistan
La Quadrature du Net, Europe, France
The Internet Democracy Project, India
Digital Rights Foundation, Pakistan
Privacy International
PROTESTE - Associação de Consumidores, Brazil