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Agenda item 69 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Brazil and Germany: 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 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 further the Vienna Declaration and Programme of Action,

Noting that the rapid pace of technological development enables individuals in all regions to use new information and communication technologies and at the same time enhances the capacity of Governments, companies and individuals for surveillance, interception and data collection, which may violate human rights, in particular the right to privacy, as enshrined 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 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, 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,

Stressing 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,



Welcoming the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,¹ submitted to the Human Rights Council at its twenty-third session, concerning the implications of States' surveillance of communications and the interception of personal data for the exercise of the human right to privacy,

Emphasizing that illegal surveillance of communications, their interception and the illegal collection of personal data constitute a highly intrusive act that violates the right to privacy and freedom of expression and may threaten the foundations of a democratic society,

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,

Deeply concerned at human rights violations and abuses that may result from the conduct of any surveillance of communications, including extraterritorial surveillance of communications, their interception and the collection of personal data, in particular massive surveillance, interception and data collection,

Recalling that States must ensure that measures taken to counter terrorism comply with international law, in particular international human rights, refugee and humanitarian law,

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;

2. *Recognizes* the rapid advancement in information and communications technologies, including the global and open nature of the Internet, 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, in particular the right to privacy;

4. *Calls upon* all States:

(a) To respect and protect the rights referred to in paragraph 1 above, 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 collection of personal data, including massive surveillance, interception and collection, with a view to upholding the right to privacy and ensuring the full and effective implementation of all their obligations under international human rights law;

¹ A/HRC/23/40 and Corr.1.

(d) To establish independent national oversight mechanisms capable of ensuring transparency and accountability of State surveillance of communications, their interception and collection of personal data;

5. *Requests* the United Nations High Commissioner for Human Rights to submit an interim report on the protection of the right to privacy in the context of domestic and extraterritorial surveillance of communications, their interception and collection of personal data, including massive surveillance, interception and collection of personal data, 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 how to address security concerns in a manner consistent with States' obligations under international human rights law and with full respect for human rights, in particular with respect to surveillance of digital communications and the use of other intelligence technologies that may violate the human right to privacy and freedom of expression and of opinion;

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".
