

2 March 2015

NGOs call on governments to support the establishment of a UN Special Rapporteur on the right to privacy

The undersigned non-governmental organisations working to protect human rights write to encourage governments to support the creation of a new Special Rapporteur on the right to privacy at the Human Rights Council (HRC) 28th ordinary session in March.

The UN General Assembly resolution on the right to privacy in the digital age – adopted by consensus on 18 December 2014 - encourages the HRC to consider the possibility of establishing a special procedure on the right to privacy. At the 28th ordinary session, the HRC is expected to consider this invitation and as such it provides a unique opportunity for the HRC to take decisive action to ensure that the right to privacy engages the level of priority ascribed by the HRC to most other rights, and is finally accorded the international recognition and protection it deserves.

The UN General Assembly, the UN High Commissioner for Human Rights and existing special procedure mandate holders have all recognized the pressing need to provide continuous, systematic and authoritative guidance on the scope and content of the right to privacy as enshrined in article 12 of UDHR and article 17 of ICCPR. Significantly, all of them have identified the need to assess and monitor the ongoing implementation of this right.

Many states and other stakeholders during the panel discussion on the UN High Commissioner's report at the HRC's 27th session in September 2014 have also emphasized the need for sustained and systematic analysis, research and monitoring on the right to privacy. Such a task can only be performed by a dedicated mandate holder.

This assessment has also been supported by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, both of whom have acted to include analysis on aspects of privacy issues within the ambit of their respective mandates.

The current lack of a dedicated thematic special procedure on the right to privacy hinders the capacity of the HRC to provide leadership in protecting and promoting this right, particularly as modern technologies are enabling interferences with privacy on an unprecedented scale. A Special Rapporteur on the right to privacy would fill this significant institutional gap and enable the HRC to take a leading role in identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy. The mandate would be able to systematically monitor and assess the impact of the right to privacy by state and non-state actors, as well the implementation of their obligations and responsibilities. He or she would also play a critical role in better articulating the content of the right to privacy and provide needed guidance to states and companies on its interpretation. In doing so, a mandate holder on privacy would be able to draw on the input from all relevant stakeholders, and ensure the development of a coherent and complementary approach to the interaction between privacy, freedom of expression, and other rights.

To effectively fulfill this role, a Special Rapporteur on the right to privacy should be able to perform all the functions usually envisaged by the HRC for other existing thematic special procedures, such as documenting best practices; receiving and seeking information from states, businesses, and other actors; carrying out country visits; leading and participating in consultation with relevant stakeholders; making recommendations to States on the implementation and realization of right to privacy; and reporting periodically to the HRC and the General Assembly.

We therefore encourage governments to support the creation of a Special Rapporteur with a mandate to provide guidance on the scope and content of the right to privacy as enshrined in article 12 of UDHR and article 17 of ICCPR, and to monitor its application by states, companies and other actors, to ensure its proper implementation and enforcement.

Signatories NGOs:

- 1. Access**
- 2. Ageia Densi (Colombia)**
- 3. Alternatives (Canada)**
- 4. American Civil Liberties Union**
- 5. Amnesty International**
- 6. Article 19**
- 7. Asociación Trinidad/Radio ViVa (Paraguay)**
- 8. Association for Civil Rights in Israel (Israel)**
- 9. Association for Progressive Communications**
- 10. Australian Section of the International Commission of Jurists (Australia)**
- 11. BlueLink.net (Bulgaria)**
- 12. Brennan Center for Justice**
- 13. Bytes for All (Pakistan)**
- 14. Canadian Civil Liberties Association (Canada)**
- 15. Center for Democracy and Technology**
- 16. Centro de Estudios Legales y Sociales (CELS) (Argentina)**
- 17. Colombian Commission of Jurists (Colombia)**
- 18. Contingente Mx (Mexico)**
- 19. Cyber Law Centre (Indonesia)**
- 20. Derechos Digitales (Chile)**
- 21. Digital Empowerment Foundation (India)**
- 22. Digital Rights Association (Association des droits numériques) (Morocco)**

23. **Dutch Section of the International Commission of Jurists (the Netherlands)**
24. **Egyptian Initiative for Personal Rights (Egypt)**
25. **Electronic Frontier Foundation**
26. **Enjambre Digital (Mexico)**
27. **eQualit.ie (Canada)**
28. **Fantsuam Foundation (Nigeria)**
29. **Foundation for Media Alternatives (Philippines)**
30. **Fundacion EsLaRed (Venezuela)**
31. **Fundacion Karisma (Colombia)**
32. **GreenNet (United Kingdom)**
33. **Hiperderecho (Peru)**
34. **Human Rights Law Network (India)**
35. **Human Rights Watch**
36. **Hungarian Civil Liberties Union (Hungary)**
37. **International Commission of Jurists**
38. **International Commission of Jurists-Norway (Norway)**
39. **International Federation for Human Rights**
40. **Ipandetec (Panama)**
41. **Irish Council for Civil Liberties (Ireland)**
42. **Kenya Human Rights Commission (KHRC) (Kenya)**
43. **Korean Progressive Network - Jinbonet (South Korea)**
44. **LaborNet (United States)**
45. **Liberty (U.K.)**
46. **Legal Resources Centre (LRC) (South Africa)**
47. **May First/People Link (United States)**
48. **Nodo TAU (Argentina)**
49. **Odhikar (Bangladesh)**
50. **OneWorld Platform for Southeast Europe - OWPSEE (Bosnia and Herzegovina)**
51. **Palestinian Centre for Human Rights**
52. **Pangea (Spain)**
53. **Polish Section of the International Commission of Jurists (Poland)**
54. **Privacy International**

- 55. PROTEGE QV (Cameroon)**
- 56. Swiss Section of the International Commission of Jurists (Switzerland)**
- 57. TEDIC (Paraguay)**
- 58. Thai Netizen Network (Thailand)**
- 59. Voices for Interactive Choice and Empowerment (Bangladesh)**
- 60. WITNESS**
- 61. Unwanted witnesses (Uganda)**
- 62. Usuarios Digitales (Ecuador)**
- 63. Zimbabwe Human Rights NGO Forum (Zimbabwe)**