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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 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/her privacy, family, home or correspondence, and the right to the protection of the law against such interferences, 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 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,

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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, on the implications of States' surveillance of communications on the exercise of the human rights to privacy and to freedom of opinion and expression,

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 rights to privacy and freedom of expression and may contradict the tenets 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 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,

Reaffirming that States must ensure that any measures taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

1. *Reaffirms* the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his/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 and article 17 of the International Covenant on Civil and Political Rights;

2. *Recognizes* the global and open nature of the Internet and the rapid advancement in information and communication 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 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;

¹ A/HRC/23/40 and Corr.1.

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

5. *Requests* the United Nations High Commissioner for Human Rights to present a report on the protection and promotion of the right to privacy in the context of domestic and extraterritorial surveillance and/or interception of digital communications and collection of personal data, including on a mass scale to the Human Rights Council, at its twenty-seventh session, and to the General Assembly at its sixty-ninth session, with views and recommendations, to be considered by Member States;

6. *Decides* to examine the question 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”.
