Briefing note
Human Rights Council 27th session

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The 27th session of the Human Rights Council (HRC27) will take place in Geneva from 8-26 September 2014. Internet rights and freedoms will feature prominently with the highlight being the Council's consideration of the landmark report of the UN High Commissioner for Human Rights on the Right to Privacy in the Digital Age and related panel discussion on September 12th and a discussion on violence against children online.

APC will be attending the session to focus on internet rights and will be supporting a small group of sexual rights activists who will be attending the Council for the first time. We will also be focusing on the reviews of Egypt, Iraq and Democratic Republic of the Congo, which will take place in November, during the 20th Universal Periodic Review (UPR) session. This briefing note highlights the key internet rightsrelated issues in the Council's agenda for this session as well as countries under scrutiny in the UPR.

You can follow the HRC session online. Plenary sessions will be live streamed and archived.[1] The twitter hashtags for the session are #HRC27[2] and #UNPrivacy.[3]

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[1] www.unmultimedia.org/tv/webcast/c/un-human-rights-council.html

[2] https://twitter.com/hashtag/HRC27?src=hash

[3] https://twitter.com/hashtag/HRC27?src=hash

1. UN High Commissioner Report on the Right to Privacy in the Digital Age (A/HRC/27/37)[4]

In December 2013, the General Assembly requested the UN High Commissioner for Human Rights to submit a report on the protection and promotion of the right to privacy in the digital age to the Human Rights Council at its 27th session (GA resolution 68/167).[5] The High Commissioner was asked to consider privacy in the context of domestic and extraterritorial surveillance and/or the interception of digital communications and the collection of personal data, including on a mass scale.

In March 2014 the High Commissioner called for submissions and in July she released her final report.[6] The report's analysis and findings are clear and provide a very persuasive analysis of human rights in the context of mass surveillance, metadata collection and retention, and the application of human rights to extraterritorial actions of governments. She found that mass surveillance by its very nature interferes with the right to privacy, and recommended that all stakeholders take steps to ensure that effective and independent oversight regimes and practices are in place, with attention to the rights of victims and to effective remedies. Non-governmental organisations welcomed the report and discussions are underway about how best to take this work forward to ensure privacy rights protection.

One option under discussion is the creation of a new mandate holder, a Special Rapporteur on the Right to Privacy. The panel on the right to privacy in the digital age will be a critical next step in this potential process; civil society groups will be following this panel closely and seeking concrete follow up actions.

The panel discussion on the right to privacy in the digital age will take place on September 12th, 9:00 - 12:00 in Room XX, Palais de Nations, Geneva.

The objective of the panel (as set out in the concept note A/HRC/27/37) is :

> "to examine the promotion and protection of the right to privacy in the digital age in the context of domestic and extraterritorial surveillance and/or the interception of digital communications and the collection of personal data, including on a mass scale, also with a view to identifying challenges and best practices, taking into account the report of the United Nations High Commissioner for Human Rights."

The panel will be chaired by H.E. Mr. Baudelaire Ndong Ella, President of the Human Rights Council, and moderated by Mr. Marko Milanovic, Associate Professor at the University of Nottingham. The opening statement will be presented by Ms. Flavia Pansieri, Deputy High Commissioner for Human Rights. Speakers will include: Catalina Botero, IACHR Special Rapporteur on Freedom of Expression; Sarah Cleveland, Professor, Columbia Law School; Yves Nissim, Deputy Chief CSR officer at Orange, former Chair of the Telecommunications Industry Dialogue; and Carly Nyst, Legal Director, Privacy International.

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[4] www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A.HRC.27.37_en.pdf

[5] www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/167

[6] www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A.HRC.27.37_en.pdf

The expected outcomes of this panel discussion are:

- States and other stakeholders will gain a better understanding of the challenges linked to the protection and promotion of the right to privacy in the context of domestic and extraterritorial surveillance and/or the interception of digital communications and the collection of personal data, including on a mass scale, and will be able to learn from shared experiences and identify good practices.

- OHCHR will prepare a summary report on the outcome of the panel discussion, which will be submitted to the Human Rights Council at its 28th session.

2. Factors that impede equal political participation and on steps to overcome those challenges (A/HRC/27/29)[7]

This discussion, which will take place under Agenda item 2 of the Council's programme of work (no specific date has been set yet), will examine the human rights framework relating to participation in political and public affairs. The background study, prepared by the Office of the High Commissioner for Human Rights, identifies some of the major barriers to equal participation including discrimination against women, indigenous peoples, people with disabilities, and human rights defenders, and makes recommendations for actions to overcome these challenges. The study includes assessment of social media platforms and recommends:

> "The development of social media platforms and associated opportunities to freely take part in online activism has the potential to reduce inequalities in connection with political and public participation. States should foster and encourage the use of new and assistive technologies to improve access to political and public life for people with disabilities, restricted mobility or limited literacy, and other groups."

3. Panel on accelerating global efforts to end violence against children (HRC resolution 25/10)[8]

This panel will be held Tuesday 23 September at 09:00-12:00 in Geneva.

This panel discussion is based on Council resolution 25/10 of 26 March 2014 "Ending violence against children: a global call to make the invisible visible." The concept note for this panel refers to ways of addressing violence against children in cyberspace, including:

> *Under II. Protection of children from violence – an urgent priority:*
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> (2) Violence against children is never justifiable and it can be prevented. Yet, violence against children exists in every country of the world, cutting across boundaries of race, class, religion and culture. **Despite progress made since the presentation of the UN Study on Violence against Children to the General Assembly in 2006[9], children continue to be victims of violence in different settings**– the home and family, school, care and justice institutions, in communities, in places where children work **and more recently also in cyber space– in contradiction with human rights norms and**

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[7] www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_29_ENG.doc

[8] daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/135/12/PDF/G1413512.pdf

[9] http://www.unicef.org/violencestudy/reports/SG_violencestudy_en.pdf

standards, particularly the Convention of the Rights of the Child and its Optional Protocols.

Under III. Ongoing trends:

(11) "Another form of violence against children that is particularly damaging is sexual abuse. It puts an abrupt end to childhood and its consequences continue long into adulthood. The World Health Organization estimates that approximately 20% of women and 5 to 10% of men report being sexually abused as children. Much of this sexual violence is inflicted by people close to the child at home, institutions and schools. The increasing availability of **pornography, including through the internet**, has contributed to trends that sexualize children and contribute to child sexual abuse. **In addition, the internet is opening new areas in which children are subjected to violence, for example cyber-bullying and child website sex tourism**.

Overall, the panel aims to:

- Focus on ways and means of accelerating global and national efforts to end all forms of violence against children, with a particular emphasis on prevention;
- Share experiences, good practices and lessons learned at national and regional levels on how to prevent and respond to all forms of violence against children;
- Highlight remaining challenges to prevent and eliminate violence against children and make recommendations on the way forward.

4. Universal Periodic Review

A number of Universal Periodic Reviews will take place during this session, with internet specific recommendations. In these reviews we continue to see both general and specific internet related rights concerns and recommendations for action. We will focus in particular on Egypt.

Below we note the country under review and internet related recommendations which will be considered for adoption, with the country proposing these also noted in brackets.

Portugal (A/HRC/27/7)[10]

Consideration of the UPR outcome will take place on Thursday 18 September @ 15:00-18:00 CET.

Step up monitoring of the Internet to prevent it from being used to disseminate racist or xenophobic comments and material, with a view to prosecuting the perpetrators of such acts (Islamic Republic of Iran - rec # 126.23).

Democratic People's Republic of Korea (A/HRC/27/10)[11]

Consideration of the UPR outcome will take place on Friday 19 September @ 09:00-12:00 CET.

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[10]http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_7_ENG.doc

[11]http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_10_ENG.doc

Allow the establishment of independent newspapers and other media; allow its citizens to access the internet and the international media; and abolish compulsory indoctrination sessions (Australia - rec # 124.132);

Allow the establishment of independent newspapers and other social media, including free access to the internet (Israel - rec # 124.133).

Costa Rica (A/HRC/27/12)[12]

Consideration of the UPR outcome will take place on Friday 19 September @ 12:00-15:00 CET.

Guarantee the effective protection of children's rights offline as well as online by amending the relevant national laws if necessary and providing adequate resources (Estonia - rec # 128.34).

Ethiopia (A/HRC/27/14)[13]

Consideration of the UPR outcome will take place on Friday 19 September @ 12:00-15:00 CET.

Review its legislation to ensure that any limitations on the right to freedom of expression, both online and offline, are in full compliance with article 19 of ICCPR, in particular by providing for a defence of truth in all defamation cases (Ireland - rec # 155.107);

Continue to grant all political parties unfettered access to the print and electronic media for fair elections (Nigeria - rec # 155.116).

5. Side events

We will be following some side events and highlighting internet related human rights issues, including sexual rights, including:

- 9 September: Abortion Stigma, Criminalization and Restrictive Laws and Policies: Breaking the Cycle to Realise Women's and Girls' Rights
- 10 September: ARC International side event on the universality of human rights that will look at traditional values, protection of the family
- 10 September: Privacy International, Human Rights Watch, and ACLU side event on the right to privacy in the digital age
- 15 September: Panel on the protection of the family and its members
- 17 September: ARC side event on sexual rights.

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[12] http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_12_ENG.doc
[13] http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_14_ENG.doc

6. Summary of the Human Rights Council panel discussion on the importance of the promotion and protection of civil society space (A/HRC/27/33)[14]

This session will consider the findings of a panel discussion during HRC 25 in March 2014, in which the Council discussed the importance of the promotion and protection of civil society space. The UN Special Rapporteur on freedom of opinion and expression emphasised internet rights in his discussion of challenges facing protection of civil society space, including internet access and the rights of journalists, media workers and women journalists:

> "[The Special Rapporteur] considered it important that everybody should have equal access to the Internet – an important communications instrument – in particular, for remote and rural populations. Failure to address this gap would deepen and widen the divide between the technologically privileged and economic elite and poorer sectors. [T]he Special Rapporteur noted that the power of the Internet had been amply demonstrated during the Arab spring, and consequently a backlash was observed in many States, which imposed barriers to the use of the Internet and made communication riskier. Access to the Internet had become more limited, websites were blocked and hundreds of bloggers were imprisoned all over the world. Some States argued that restrictions on the use of the Internet stemmed from traditional values, religious or cultural identities; others claimed that limitations were justified by reasons of national security. [..] A third challenge noted by the Special Rapporteur was the increase in attacks against media workers and violence against journalists, including so-called "citizen journalists". It was crucial to stop attacks and sexual harassment against women journalists."

7. Summary report on the panel discussion on the issue of the safety of journalists - Report of the Office of the United Nations High Commissioner for Human Rights (A/HRC/27/35)[15]

This item responds to the Council request for a summary of a panel discussion on the safety of journalists which took place during HRC 26 in June.[16] The report includes discussion of the definition of "journalist" (recommending this include bloggers and citizen journalists) and the role of the internet , noting that "the digital age has brought unlimited opportunities for the dissemination of information" and States must consider their obligations accordingly.

8. Concurrent treaty body sessions of relevance

On 12 September, the UN Committee on the Rights of the Child is holding a day of general discussion on Digital Media and Children's Rights. This will include consideration of internet-related issues, with inputs from the previous Special Rapporteur on Freedom of Expression, Frank La Rue.

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[14] www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_33_ENG.doc

[15] www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Documents/A-HRC-27-35_en.doc

[16] www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/SafetyOfJournalists.doc

9. Highlights from HRC26

Internet rights featured prominently at the last HRC session, held from 10-27 June. A key outcome was the adoption of the HRC's second resolution (Res/26/L.24) dedicated specifically to the promotion, protection, and enjoyment of human rights on the internet. Adopted by consensus by 82 member states, the resolution is significant in that it recognises the impact of the internet on a broad range of human rights, including the right to education, privacy, freedom of expression, and the right of peaceful assembly and association. The resolution also addresses key internet issues like access to information, digital literacy, interoperability, and innovation, and recognises the global and open nature of the internet.