Seventy-third session
Agenda item 74 (b)

Resolution adopted by the General Assembly
on 17 December 2018

[on the report of the Third Committee (A/73/589/Add.2)]

73/179.  The right to privacy in the digital age

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations, the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights¹ and relevant international human rights treaties, including the International Covenant on Civil and Political Rights² and the International Covenant on Economic, Social and Cultural Rights,³ as well as the Vienna Declaration and Programme of Action,⁴

Recalling General Assembly resolutions 68/167 of 18 December 2013, 69/166 of 18 December 2014 and 71/199 of 19 December 2016 on the right to privacy in the digital age, and resolution 45/95 of 14 December 1990 on guidelines for the regulation of computerized personal data files, as well as Human Rights Council resolutions 28/16 of 26 March 2015⁵ and 34/7 of 23 March 2017⁶ on the right to privacy in the digital age and resolutions 32/13 of 1 July 2016⁷ and 38/7 of 5 July 2018⁸ on the promotion, protection and enjoyment of human rights on the Internet,

Recalling also the outcome document of the high-level meeting of the General Assembly on the overall review of the implementation of the outcomes of the World Summit on the Information Society,⁹

1  Resolution 217 A (III).
2  See resolution 2200 A (XXI), annex.
3  A/CONF.157/24 (Part I), chap. III.
5  Ibid., Seventy-second Session, Supplement No. 53 (A/72/53), chap. IV, sect. A.
7  Ibid., Seventy-third Session, Supplement No. 53 (A/73/53), chap. VI, sect. A.
8  Resolution 70/125.
Taking note of the reports of the Special Rapporteur of the Human Rights Council on the right to privacy\textsuperscript{9} and the reports of the Special Rapporteur of the Human Rights Council on the promotion and protection of the right to freedom of opinion and expression,\textsuperscript{10}

Welcoming the work of the Office of the United Nations High Commissioner for Human Rights on the right to privacy in the digital age, noting with interest the report of the High Commissioner thereon,\textsuperscript{11} and recalling the panel discussion on the right to privacy in the digital age held during the twenty-seventh session of the Human Rights Council,

Noting that the rapid pace of technological development enables individuals all over the world to use new information and communications 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,

Noting also that violations and abuses of the right to privacy in the digital age may affect all individuals, with particular effects on women, as well as children and those who are vulnerable and marginalized,

Recognizing that the promotion of and respect for the right to privacy are important to the prevention of violence, including gender-based violence, abuse and sexual harassment, in particular against women and children, which can occur in digital and online spaces and includes cyberbullying and cyberstalking,

Reaffirming the human right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, 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 the right to freedom of peaceful assembly and association, and is one of the foundations of a democratic society,

Noting with appreciation general comment No. 16 of the Human Rights Committee on article 17 of the International Covenant on Civil and Political Rights, on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation,\textsuperscript{12} while also noting the vast technological leaps that have taken place since its adoption and the need to discuss the right to privacy in view of the challenges of the digital age,

Recognizing the need to further discuss and analyse, based on international human rights law, issues relating to the promotion and protection of the right to privacy in the digital age, procedural safeguards, effective domestic oversight and remedies, the impact of surveillance on the right to privacy and other human rights, as well as the need to examine the principles of non-arbitrariness, lawfulness, legality, necessity and proportionality in relation to surveillance practices,

Noting the holding of the Global Multi-stakeholder Meeting on the Future of Internet Governance (\textsc{netmundial}) and the multi-stakeholder discussions that take place annually in the Internet Governance Forum, which is a multi-stakeholder forum

\textsuperscript{9} A/HRC/34/60 and A/72/540.
\textsuperscript{10} A/HRC/38/35 and A/73/348.
\textsuperscript{11} A/HRC/39/29.
\textsuperscript{12} Official Records of the General Assembly, Forty-third Session, Supplement No. 40 (A/43/40), annex VI.
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for discussions of Internet governance issues and whose mandate was extended by
the General Assembly in 2015 for another 10 years, and recognizing that effectively
addressing the challenges relating to the right to privacy in the context of modern
communications technology requires an ongoing, concerted multi-stakeholder
engagement,

*Emphasizing* that the protection and promotion of, and respect for, the right to
privacy benefit from sustained engagement, including through informal dialogues,
among all stakeholders, including States, business enterprises, international
organizations and civil society,

*Recognizing* that the discussion on the right to privacy should be based upon
existing international and domestic legal obligations, including international human
rights law, as well as relevant commitments, and should not open the path for undue
interference with an individual’s human rights,

*Stressing* the importance of full respect for the freedom to seek, receive and
impair information, including the fundamental importance of access to information
and democratic participation,

*Recognizing* that the right to privacy is important for the enjoyment of other
rights and can contribute to an individual’s ability to participate in political,
economic, social and cultural life, and noting with concern that violations or abuses
of the right to be free from unlawful or arbitrary interference with the right to privacy
might affect the enjoyment of other human rights, including the right to freedom of
expression and to hold opinions without interference, and the right to peaceful
assembly and freedom of association,

*Noting* that, while metadata may provide benefits, certain types of metadata,
when aggregated, can reveal personal information that can be no less sensitive than
the actual content of communications and can give an insight into an individual’s
behaviour, social relationships, private preferences and identity,

*Expressing concern* that individuals often do not and/or cannot provide their
free, explicit and informed consent to the sale or multiple resale of their personal data,
as the collecting, processing, use, storage and sharing of personal data, including
sensitive data, have increased significantly in the digital age,

*Noting with concern* that profiling, automated decision-making and machine-
learning technologies, sometimes referred to as artificial intelligence, without proper
safeguards, may lead to decisions that have the potential to affect the enjoyment of
human rights, including economic, social and cultural rights, and recognizing the need
to apply international human rights law in the design, evaluation and regulation of
these practices,

*Emphasizing* that unlawful or arbitrary surveillance and/or interception of
communications, as well as the unlawful or arbitrary collection of personal data, as
highly intrusive acts, violate the right to privacy, can interfere with the right to
freedom of expression and may contradict the tenets of a democratic society,
including when undertaken extraterritorially or on a mass scale,

*Recognizing* that the same rights that people have offline must also be protected
online, including the right to privacy,

*Noting in particular* that surveillance of digital communications must be
consistent with international human rights obligations and must be conducted on the
basis of a legal framework, which must be publicly accessible, clear, precise,
comprehensive and non-discriminatory, and that any interference with the right to
privacy must not be arbitrary or unlawful, bearing in mind what is reasonable with
regard to the pursuance of legitimate aims, and recalling that States that are parties to
the International Covenant on Civil and Political Rights must take the necessary steps to adopt laws or other measures as may be necessary to give effect to the rights recognized in the Covenant,

表达对信息和宣传的担忧，包括在互联网上，这些可以被设计和实施来误导，侵犯人权，包括隐私权和言论自由权，和煽动暴力，仇恨，歧视或敌意，以及强调记者的重要贡献在反对这种趋势。

强调，国家必须尊重国际人权义务，特别是在拦截个人数字通信时，以及个人数据，以及通过，例如，信息和情报共享协议和个人从第三方，包括私人公司，收集数据时。

注意到增加收集敏感生物信息的人，强调国家必须尊重其人权义务和企业必须尊重隐私和其他人权，当收集，处理，共享和存储生物信息时，例如，考虑采用数据保护政策和措施。

欢迎公司采取自愿措施，向用户提供关于其处理和数据存储的政策。

深感担忧，对监视和/或拦截通信，以及收集个人数据，特别是当出于大规模时，可能对行使和享受人权。

强调，技术解决方案来保证和保护数字通信的隐私权，可能包括措施，如加密，匿名化和匿名性，可以确保隐私权，言论自由权和和平集会和协会权利，并认识到国家应不采用非法或任意的监视技术，包括黑客。

注意，在许多国家，个人和组织，记者和其他媒体工作者经常面临威胁和骚扰，以及非法或任意的对隐私的侵犯，因为他们的活动。

注意，虽然对公共安全的担忧可能合法地收集某些敏感信息，国家必须确保完全遵守其国际人权法。

注意，在这种情况下，防止和打击恐怖主义是一项公共利益，应确保采取的任何措施符合其国际法义务，特别是国际人权，难民和人道主义法。
The right to privacy in the digital age

Recognizing that an open, secure, stable, accessible and peaceful information and communications technology environment is important to the realization of the right to privacy in the digital age,

1. Reaffirms the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or 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 communications technologies as a driving force in accelerating progress towards development in its various forms, including in achieving the Sustainable Development Goals;

3. Affirms that the same rights that people have offline must also be protected online, including the right to privacy;

4. Recalls that any interference with the right to privacy should take into account its legality, necessity and proportionality;

5. Encourages all States to promote an open, secure, stable, accessible and peaceful information and communications technology environment based on respect for international law, including the obligations enshrined in the Charter of the United Nations and human rights instruments;

6. Calls upon all States:

   (a) To respect and protect the right to privacy, including in the context of digital communications;

   (b) To take measures to put an end to violations of the right to privacy 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, on a regular basis, their procedures, practices and legislation regarding the surveillance of communications, their interception and the 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;

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

   (e) To provide individuals whose right to privacy has been violated by unlawful or arbitrary surveillance with access to an effective remedy, consistent with international human rights obligations;

   (f) To consider developing or maintaining and implementing adequate legislation, in consultation with all relevant stakeholders, including civil society, with effective sanctions and appropriate remedies, that protects individuals against violations and abuses of the right to privacy, namely through the unlawful and arbitrary collection, processing, retention or use of personal data by individuals, Governments, business enterprises and private organizations;

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13 See resolution 70/1.
(g) To consider adopting and implementing data protection legislation, regulation and policies, including on digital communication data, that complies with their international human rights obligations, which could include the establishment of national independent authorities with powers and resources to monitor data privacy practices, investigate violations and abuses and receive communications from individuals and organizations, and to provide appropriate remedies;

(h) To further develop or maintain, in this regard, preventive measures and remedies for violations and abuses regarding the right to privacy in the digital age that may affect all individuals, including where there are particular effects on women, as well as children and those who are vulnerable and marginalized;

(i) To consider developing, reviewing, implementing and strengthening gender-responsive policies that promote and protect the right of all individuals to privacy in the digital age;

(j) To provide effective guidance to business enterprises on how to respect human rights by advising on appropriate methods, including human rights due diligence, and on how to consider effectively issues of gender, vulnerability and/or marginalization;

(k) To promote quality education and lifelong educational opportunities for all to foster, inter alia, digital literacy and technical skills to effectively protect privacy;

(l) To refrain from requiring business enterprises to take steps that interfere with the right to privacy in an arbitrary or unlawful way;

(m) To take steps to enable business enterprises to adopt adequate voluntary transparency measures with regard to requests by State authorities for access to private user data and information;

(n) To consider developing or to maintain legislation, preventive measures and remedies addressing harm from the processing, use, sale or multiple resale or other corporate sharing of personal data without the individual’s free, explicit and informed consent;

7. Calls upon business enterprises:

(a) To meet their responsibility to respect human rights in accordance with the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework,\(^\text{14}\) including the right to privacy in the digital age;

(b) To inform users in a clear and easily accessible way about the collection, use, sharing and retention of their data that may affect their right to privacy and to establish transparency policies, as appropriate;

(c) To implement administrative, technical and physical safeguards to ensure that data are processed lawfully and to ensure that such processing is limited to what is necessary in relation to the purposes of the processing and that the legitimacy of such purposes, as well as the accuracy, integrity and confidentiality of the processing, is ensured;

(d) To ensure that respect for the right to privacy and other international human rights is incorporated into the design, operation, evaluation and regulation of automated decision-making and machine-learning technologies and to provide for

\(^{14}\) A/HRC/17/31, annex.
remediation of the human rights abuses that they have caused or to which they have contributed;

8. *Encourages* business enterprises to work towards enabling secure communications and the protection of individual users against arbitrary or unlawful interference with their privacy, including by developing technical solutions;

9. *Encourages* all relevant stakeholders to participate in informal dialogues about the right to privacy, and takes note with appreciation of the contribution of the Special Rapporteur of the Human Rights Council on the right to privacy to this process;

10. *Encourages* the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights to remain actively seized of the debate, and invites all relevant stakeholders to further discuss how profiling, automated decision-making and machine-learning technologies, sometimes referred to as artificial intelligence, without proper safeguards, impact the enjoyment of the right to privacy, for the purpose of clarifying existing principles and standards and identifying best practices regarding the promotion and protection of the right to privacy;

11. *Decides* to continue its consideration of the question at its seventy-fifth session.

55th plenary meeting
17 December 2018