



General Assembly

Distr.: General
24 May 2011

English only

Human Rights Council

Seventeenth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Association for Progressive Communications (APC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 May 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Internet rights are human rights

1. APC welcomes the annual report of the Special Rapporteur on Freedom of Expression and Opinion and its focus on the internet. Access to the internet facilitates freedom of expression and freedom of association, enables knowledge sharing, learning and collaboration, and is a driver for social and economic development. Yet, as the report details, access to the internet is increasingly at risk. Recent internet shutdowns have limited freedom of expression, freedom of association and political free speech.

2. The report highlights human rights issues of grave concern including: a) criminalisation of online expression, b) blocking, controlling and manipulating internet content, c) interference with privacy and data protection, d) unlawful surveillance, and restrictions and e) limitations on internet access. Such actions are a violation of human rights and fundamental freedoms set out in the Universal Declaration of Human Rights and the right to freedom of expression affirmed in Article 19 of the ICCPR.

3. Restricting free expression and the free flow of information on the internet is a global trend. People who speak out against repression risk their own freedom and safety and contrary to human rights standards their online denouncements are often censored or banned. The impact of these violations is greatest in States which lack strong human rights protection, nevertheless, all States must uphold universal and agreed upon international human rights standards. We commend the Special Rapporteur for bringing attention to these issues.

4. Human rights are the birth right of all people and are recognised in the UDHR as universal, inalienable and indivisible. It is vital that existing agreed international human rights standards are the foundation for all States to respect, protect and promote human rights offline and online with new technology such as the internet which is used by billions of people around the globe and operates through a decentralised infrastructure with no single regulatory oversight.

5. Freedom of expression is closely related to freedom of association and both play a crucial role in supporting democracy and guaranteeing human rights. The APC therefore expresses grave concern at the serious and significant human rights violations by State and non-State actors against those using the internet and related technologies for advancing democratic participation and political free speech. We call for an end to these violations and seek measures to protect and enhance democracy and movements for social justice.

6. Internet intermediaries include internet service providers, internet cafes, blog hosts, mobile operators, social networking platform providers, and search engines. These play critical roles in supporting online communication and upholding freedom of expression and freedom of association by providing access to networks, and enabling online participation. State activities which interfere with fluid online activity are growing, such as increasing licensing conditions requiring collection of user data, provision of user account information, requiring control of online content and behaviour, and the erosion of protection from liability for third party content.

7. The Special Rapporteur was unable to consult fully in all regions during the past year. APC has more than 40 members and a global network. We work with multiple and diverse civil society organisations which also have global, regional and national networks. The global issues raised by the Special Rapporteur require a global response.

8. The Special Rapporteur highlights new and emerging human rights issues. For example, access is a critical building block of exercising the rights to freedom of expression and freedom of association. We reiterate that access is a multi-faceted concept, including

not only physical access to the internet but also access in local languages, accessibility for disabled persons and access to locally produced content.

9. We congratulate the Special Rapporteur for highlighting women's human rights. We recall State commitments to women's human rights and the recent focus of the Commission on the Status of Women on women, science and technology. Women's rights to freedom of expression and freedom of association must be respected and protected. All forms of gender based violence (including domestic violence, sexual violence and harassment) in both public and in private spheres are forms of discrimination and a violation of women's human rights.¹ States must take all steps to prevent and eliminate such violence. In relation to the internet this means ensuring that laws, policies and practices do not permit or create new forms of violence against women such as cyber-stalking, digital surveillance, data monitoring and other interferences with women's rights. Women's human rights must be respected and protected and not restricted, directly or indirectly, in the name of 'security' or other law enforcement measures except as determined in accordance with agreed human rights standards, including women's human rights standards.

10. We emphasise that consideration of human rights and the internet requires an intersectional approach that can make the links between, for example, universal access to infrastructure, accessibility and usability for marginalised groups and the promotion of linguistic diversity. For the internet to fulfil its potential as a platform for shared learning, innovation, solidarity and collaborative action for justice, multiple factors must be considered. This includes the current worrying trends in limitations on freedom of information by means of intellectual property rights enforcement, blatant disregard of personal privacy by social networking platforms, and the building in of surveillance tools in network infrastructure.

11. The clear application of existing international human rights standards to the internet by the Special Rapporteur highlights the fundamental nature of those standards and provides a clear way forward. These standards have been reiterated by civil society groups over the last twenty years, including in the APC Internet Rights Charter which demonstrates the application of the UDHR in relation to the internet.² Building on this work, a set of 10 internet rights and principles was recently developed as a guide to upholding human rights in the internet environment.³

12. We acknowledge that human rights and the internet is a new issue for the Human Rights Council. However the Council has invaluable expertise which can be used to enrich the discussions of human rights in more technical or sector specific spaces related to the internet including: the Internet Governance Forum, the World Summit on the Information Society, and the International Telecommunications Union. The Human Rights Council must continue to play its part in accordance with its mandate to "promote universal respect for the protection of all human rights and fundamental freedoms for all, without discrimination of any kind, and in a fair and equal manner" (GA 60/251, OP 2).

13. We urge the Council to adopt a participatory approach in developing responses to the issues raised by the Special Rapporteur. Such responses must be generated through open processes, which ensure the engagement of all, particularly vulnerable and

¹ General Comment 19, Committee for the Elimination of All forms of Discrimination against Women (11th session, 1992).

² Association for Progressive Communication "Internet Rights Charter" (2002)
<http://www.apc.org/en/node/5677/>

³ Internet Rights and Principles Coalition "10 Internet rights and principles" (2011)
www.internetrightsandprinciples.org

marginalised groups, in accordance with the rights based approach and principles of information sharing, participation and transparency.

Recommendations

In light of the issues raised in the report of the Special Rapporteur we make the following recommendations:

We call on States to:

- take immediate steps to end acts of violence, harassment and other human rights violations committed against individuals because of the exercise of their human rights and fundamental freedoms on the internet
- take immediate measures to stop unlawful interference with freedom of expression including in relation to internet
- repeal laws which criminalise online freedom of expression and release persons detained under such laws
- cease interference with freedom of expression by means of content control, filtering, surveillance or other interference with privacy by means which violate international human rights standards
- limit the limitations on freedom of expression and place limitations on freedom of expression only in accordance with international human rights standards
- conduct independent investigations where appropriate into allegations of unlawful interference with freedom of expression
- reaffirm that human rights are universal, indivisible and interconnected
- reaffirm the right to freedom of expression including the right to seek, receive, and impart information of any kind in any form and regardless of frontiers as set out in article 19 of the UDHR and the ICCPR
- uphold the rule of law and place limitations on freedom of expression only in accordance with the express requirements of agreed human rights standards
- uphold their responsibilities to respect, protect and promote human rights including freedom of expression and freedom of association
- ensure national laws, including constitutions, enshrine freedom of expression, including in relation to the internet, as a fundamental human right
- respect, protect, and promote the role of human rights defenders, including their freedom of association
- ensure that privacy, data collection and surveillance laws meet international human rights standards and do not target, directly or indirectly, marginalised or vulnerable groups, including on the grounds of sexual orientation or gender identity
- consider the issues raised in the report and refer these to national authorities and institutions for consideration in their specific contexts
- highlight human rights and internet issues in their periodic reports to treaty bodies
- communicate with the Special Rapporteur on measures to uphold freedom of expression and the rule of law in relation to the internet
- include issues relating to human rights and the internet in reports to special mechanisms and in Universal Periodic Review reports and procedures

We encourage all United Nations bodies to take the following steps:

- ensure that the human rights framework is a unifying theme when considering internet issues within their mandates
- (particularly the Human Rights Council) to address these human rights issues, particularly in Universal Periodic Review processes
- (particularly special procedures and other stakeholders) to refer to, monitor, and report on internet related human rights violations within their relevant mandates and, where appropriate, to write urgent appeals or letters to governments where internet related human rights violations are occurring
- (particularly treaty bodies) to clarify, by way of interpretative statements where necessary, that internet related human rights violations fall within their relevant mandates
- further efforts to consider the full range of human rights and internet issues, particularly in relation to women's human rights

In relation to human rights promotion and protection we urge:

- further dialogue on the application of existing human rights standards to the internet, in particular freedom of expression and freedom of association
- recognition by diverse groups that internet rights are human rights
- more research into the internet and related communication technologies on women's human rights, including their sexual and reproductive health and rights, and the impact of laws, policies and practices on their enjoyment of these rights
- human rights education for members of the judiciary, law enforcement, military and public officials on internet related aspects of human rights
- regional human rights mechanisms to monitor the situation of human rights and the internet
- national human rights institutions, including data, privacy and other ombudsmen, to monitor and report on human rights and the internet within their mandates

We call on internet intermediaries and relevant non-State actors to:

- resist and refuse attempts by States to interfere with the human rights of internet users that comply with due process of law, recognised human rights standards, and agreed international norms
 - ensure that any self-regulation of content does not infringe on the rights of users to free expression
 - take practical action to uphold human rights standards including to implement the Special Representative on Business and Human Rights' framework on business and human rights and related guidelines
 - advocate for legal and policy frameworks that uphold human rights standards in relation to the internet
 - encourage States to develop policies in relation to the internet that emphasise human rights, transparency, due process and accountability
-