



Oral Statement Delivered Under Item 3: Clustered Interactive Dialogue with the Special Rapporteur on privacy and the Special Rapporteur on the sale of children

UN Human Rights Council 34th Session

March 7, 2017

Last October, the ACLU and other members of the International Network of Civil Liberties Organizations (INCLO) released a report demonstrating the harmful effects of unrestrained government surveillance around the world, including crushing dissent, intimidating activists, and undermining the dignity of ordinary citizens.

The report, “Surveillance and Democracy: Chilling Tales from Around the World,” includes comparative evaluations, recommendations, and case studies from 10 countries in the Americas, Africa, Asia, Europe, and the Middle East.

The report highlights specific cases in which abusive government surveillance has been brought to light, and where civil society groups have challenged or sought to curtail these practices. While the nature and purpose of the unrestrained state surveillance differ significantly from country to country, these organizations have faced –and still face – a common set of obstacles in seeking to confront the abuses. Most significantly, civil society organizations face poorly defined legal frameworks delimiting surveillance powers and safeguarding individual rights; lack of transparency in regard to laws and practices governing surveillance; feeble or insufficient mechanisms for overseeing intelligence agencies and their intelligence operations; and limited avenues for pursuing accountability when intelligence services misuse surveillance tools.

Though these challenges have evolved with the digital age, they are not new. Surveillance, in its many forms a cornerstone of oppressive states, has always posed a particular test for open, dem-

ocratic societies: almost by definition, clandestine intelligence-gathering strains democratic structures and stretches fundamental commitments to due process, transparency, and citizen oversight. But, in the digital age, there is something new about state surveillance – its scope and intrusiveness. The breathtaking and constantly expanding scope of *digital* surveillance is the product of previously unthinkable technological advances that have opened entirely new windows into citizens' activities and private lives. This exponential expansion of digital electronic surveillance powers has brought widespread anxiety that intelligence-gathering may be threatening democracy itself by weakening democratic processes and institutions in countries where they are established but taken for granted, and impeding the development of democratic structures in countries where they are less established or have only recently emerged from more authoritarian systems.

We urge the Council to ensure that Member States respect the right to privacy, especially in the context of surveillance activities that must adhere to strict domestic and international human rights requirements of legality, necessity and proportionality, as well as robust transparency and accountability including access to remedy and independent judicial review.