

Check against delivery



Statement by Mr. Joe Cannataci

SPECIAL RAPPORTEUR ON THE RIGHT TO PRIVACY

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Introduction

Madam President, distinguished delegates, representatives of civil society and NGO organisations, it is a great honour to address this session of the Human Rights Council in my capacity as Special Rapporteur on the right to privacy, and to participate in an interactive dialogue on my 2020 thematic report (A/HRC/43/).

Overview of UN SRP Activities

Madam President,

Since my last address and report in 2019, I have undertaken official and ‘non-official’ country visits; promoted the protection of the right to privacy; advocated privacy principles; contributed to international privacy events; raised awareness on the right to privacy, and reported on alleged violations.

In late October 2019, I presented my thematic report to UN General Assembly with a Recommendation on Health-related Data, and the initial ‘Privacy: A Gender Perspective’ Report. Both were well received.

The Health-related Data Recommendation was the work of the Thematic Taskforce on Privacy and Health Data. Its development had broad based and extensive international input. The guidance has been very well received around the world.

I thank the Chair of the Taskforce, Professor Nikolaus Forgò and all members of the Taskforce who gave so generously of their time and expertise. (The completed Recommendation is on-line.)

You will recall upon my appointment, I established Thematic Action Stream Taskforces in five priority areas to promote privacy, and to gain the knowledge of experts from around the world.

Taskforce on ‘Privacy and Personality’

Madam President,

My mandate is required to integrate ‘gender’ in all its activities. This has been achieved across most Thematic Taskforces and meetings, and my mandate has provided input

also on privacy and gender to UNDP events in June and October 2019, and to international fora.

In 2018, I initiated a specific project to ensure a better understanding of privacy from a gender perspective. I thank the Chair of the Taskforce, Dr Elizabeth Coombs, who was the driving force behind the effort required to draft 'Recommendations for Protecting Against Gender Based Privacy Infringements', which I present today, and which has benefited from global input and renowned experts.

This work falls under the 'Better Understanding of Privacy' Taskforce, and follows the preliminary report presented to this Council in March 2019 and the General Assembly in October.

Further consultations were undertaken with an event held in the USA on 30-31 October 2019.

The preliminary report and consultations, with their themes of human rights, gender equality in privacy, and intersectionality, were very well-received. Stakeholder feedback has been instrumental in shaping the way forward.

This is one of the aims of this recommendation – to provide authoritative leadership in an area that has for too long been overlooked or, at best, regarded as a second order consideration.

Recommendations for Gender Equality in the Right to Privacy

Human rights are universal – they apply to all without distinction. In terms of gender¹, this means everyone, irrespective of their biological sex, sex characteristics, sexual orientation or gender identity and expression, is entitled to the full enjoyment of the right to privacy.

For some, their gender entails a particular reliance upon States and non-State actors to facilitate access to their right to privacy, and to protect them from infringements.

¹ All references to 'Gender' in this document should be read to mean inclusive of cis-normativity, sexual orientation, gender identity, gender expression and sex characteristics and the social norms attributed to biological characteristics.

The work² undertaken has revealed deeply disturbing infringements of privacy arising from individuals' gender.

These infringements discriminate against people and communities on the basis of their gender. There is no human dignity accorded in these actions, and many infringements are intentional acts that lead to violence.

It has to stop.

Accordingly, it is imperative to address these matters by issuing a Recommendation with the key foundations of:

- a) Privacy is a right that applies to all, irrespective of gender;
- b) gender identity is integral to personality and important to self-determination, dignity and freedom;
- c) gender intersects with ethnicity, indigeneity, amongst other factors, to heighten the importance of human rights to dignity;
- d) the right to privacy provides important protections against discrimination and worse.

Establishing clear international directions on how to protect against gender based privacy infringements, will help prevent the ongoing harms experienced by many individuals and communities round the world.

The guidance is a starting point which I hope will assist Member States to realise their obligations to protect the privacy rights of all of their citizens without discrimination.

Privacy is not – I repeat - privacy is not a luxury to be enjoyed by some – it is an essential for all.

I invite all Member States to work to achieve gender equality to the right to privacy, and offer my mandate's assistance to those State parties who wish to do more in this area.

² See SRP's report A/HRC/40/63 Annex 2, HRC March 2019 for the full account.

Children and Privacy

Throughout the past year, the mandate has also continued work on the field of Children and Privacy. In January this year, I addressed the Committee of the Convention on the Rights of the Child, and the mandate participated in a Consultation in London in October 2019.

Official country visits

I visited Argentina in May 2019 and the Republic of South Korea in July 2019 and issued detailed preliminary observations at the conclusion of each respective visit. I thank the Governments of Argentina and the Republic of Korea for their important support.

I have accepted an invitation extended by the Government of Nigeria to conduct an official visit during the second half of November 2020.

My reports of official country visits conducted to date, are in progress and will be shared with the concerned States in the coming months.

Support for International Privacy Events

I have attended many international events over the year including the African regional data protection conference in Ghana in June, 2019 and the International Conference of Data Protection and Privacy Commissioners in Tirana, Albania in October 2019.

Security and Surveillance

International Intelligence Oversight Forum (IIOF)

In October last year, the mandate held the highly successful 4th forum of the IIOF in the United Kingdom. With more than 160 participants registered from over 40 countries, this was the largest edition of the event yet. I thank the UK Government for its crucial support and encourage all Governments to participate in this annual event. The next one will be held in late October.

Encryption

I am working on a multi-stakeholder initiative to address matters concerning encryption.

Individual cases

The mandate has dealt with individual cases including those from Mr. Julian Assange and President Lenin Moreno.

Task Force on Corporations

In September 2019, I held a meeting of the Taskforce on the Use of Personal Data by Corporations in Brussels, Belgium with the next ones scheduled to take place in Washington DC in April 2020 and Berlin in September 2020.

Conclusion

Madam President,

The mandate continues its work this coming year on all the issues mentioned above as well as a new initiative on “Prisoners and Privacy”, on which theme the mandate is hosting an international workshop in Geneva, later this week and which I trust will lead to some recommendations being made to the General Assembly in October. Lastly, I thank all of those who have supported the mandate over the past year and in particular, the commitment of civil society.

I thank you for your attention and look forward to a fruitful and constructive dialogue.
