Special Rapporteur on freedom of opinion and expression: New report

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On 6 September 6 2016, a new report by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression was submitted to the General Assembly of the United Nations. This report gives an explanation of some of the critical contemporary challenges for freedom of opinion and expression throughout the world. The context for this explanation is the legal framework set by international human rights law. Moreover, the report shows positive trends for freedom of opinion and expression and finishes providing recommendation for restraining attacks on and promoting those fundamental rights.

The report observes that there are different types of actors who are having their freedom of opinion and expression diminished in different countries: journalists, political critics, opposition members, cartoonists, bloggers, and photojournalists, among others. Moreover, this report shows that attacks on freedom of expression come by physical means, but also by administrative or judicial means, among others. Furthermore, unlawful interferences with those rights are seen both in analogue and digital environments.

In order to analyse the types of attacks on freedom of expression and opinion, the report explains the main legal framework for freedom of expression at UN level, with special emphasis on Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights. The report refers to different resolutions from the Human Rights Council and the General Assembly of the UN that have recognised the relevance of freedom of expression and opinion in modern democratic societies (see for example IRIS 2016-10/11).

Online restrictions on freedom of expression and opinion are highlighted in this report. For example, the report refers to surveillance and individual security online. The report explains that bulk collection and targeted attacks on specific individuals or communities constitute a direct interference with privacy and security, which are necessary for freedom of expression and opinion. In addition, the Rapporteur states his concerns about the frequent lack of evaluation of those interferences under Article 19. As a way of illustration, the Rapporteur refers to the legal requirements of decryption in Russia and proposals from the United

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Kingdom and France to provide law enforcement and intelligence officials with the authority to request access to encrypted communications.

The Rapporteur also expresses concern about the disruption of internet and telecommunication services based on national security and public order. The report makes reference to cases in Turkey, Uganda, Malaysia, Nauru, Tajikistan, the Democratic Republic of the Congo, Burundi, India, Bangladesh, Brazil, and Pakistan. Furthermore, it is recalled that, in 2016, the Human Rights Council of the UN condemned measures to prevent or disrupt access to or dissemination of information online and called upon States to refrain from and cease those measures.

The report also refers to interferences with freedom of expression and opinion based on illegitimate aims, such as the criminalisation of criticism, “assault on reporting”, restrictions on expression relating to religion and belief, and singling out of groups.

Finally, among the recommendations given in the report, it must be recalled that the Rapporteur urges States to be mindful of the context of digital rights, the integrity of digital communications and the roles of intermediaries. Moreover, the Rapporteur recommends support for independent media and civic space, and for States to avoid imposing restrictions on reporting or research that may be seen as critical to the government or other stakeholders.

United Nations General Assembly, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/71/373, 6 September 2016

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