



Briefing note: Human Rights Council 26th session

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Introduction

The 26th session of the Human Rights Council (HRC26) will take place in Geneva from 10 to 27 June. A wide range of internet-related human rights issues will be discussed at this HRC26 session, including racism and the internet, online freedom of expression during elections processes, and technology-related violence against women. These discussions signal a continuing trend at the HRC of a focus on the internet and human rights.

This session will also include a special panel on the safety of journalists, several side events related to internet rights, and a possible new resolution on the internet and human rights. Fourteen Universal Periodic Review reports¹ will be adopted at this session, five of which address internet rights issues including online freedom of expression and information, incitement to hatred, and the role of bloggers in protecting and promoting human rights. We continue to see more mandate holders referring to the internet, this time in relation to freedom of assembly and association; racism, racial discrimination, xenophobia and related intolerance; freedom of expression, and others.

Almost two years have passed since the HRC's historic [resolution \(20/8\)](#) on the "promotion, protection and enjoyment of human rights on the Internet", which recognised the fundamental principle that "the same rights that people have offline must also be protected online." Carl Bildt, the Foreign Minister of Sweden, [recently announced](#) at the Stockholm Internet Forum that Sweden is "reaching agreement with the partner countries on a new resolution [...] that will focus more on access for new and emerging economies and countries."

Additionally, the Office of the High Commissioner for Human Rights published the [results of its consultation](#) on the right to privacy in the digital age, which will inform the High Commissioner's report on surveillance and privacy that will be published later this year.

¹At its 26th session, the Council will consider and adopt the final outcome of the [reviews](#) of Afghanistan (A/HRC/26/4), Cambodia (A/HRC/26/16), Chile (A/HRC/26/5), Comoros (A/HRC/26/11), Cyprus (A/HRC/26/14), Dominican Republic (A/HRC/26/15), Eritrea (A/HRC/26/13), New Zealand (A/HRC/26/3), Slovakia (A/HRC/26/12), Uruguay (A/HRC/26/7), Vanuatu (A/HRC/26/9), Viet Nam (A/HRC/26/6), Yemen (A/HRC/26/8), and the former Yugoslav Republic of Macedonia (A/HRC/26/10).

The programme of work for this session is available here:

www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Pages/26RegularSession.aspx

Plenary sessions will be live streamed and archived at: www.unmultimedia.org/tv/webcast/c/un-human-rights-council.html

The Twitter hashtag for the session is #HRC26

Reports and discussions relevant to internet rights

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/26/30) Frank La Rue*

The report of the Special Rapporteur focused on the realisation of the right to freedom of opinion and expression in electoral contexts, paying particular attention to the establishment and enforcement of legal instruments regulating political communications. His report explores the internet-related aspects of freedom of expression around elections in a number of respects. For example, La Rue notes the regulation of the content of print and online media sources as a legal barrier to the free flow of communication and expression during electoral processes. He also recognises the restriction to particular websites and social media sites and violence against and imprisonment of journalists, activists and bloggers as forms of censorship around elections. In particular, he noted restrictions to freedom of expression online around recent electoral processes in Azerbaijan, Malaysia and Turkey. The Special Rapporteur concludes by stating that during electoral processes, “States must ensure that the right to freedom of expression is guaranteed to political candidates and their supporters, opposition groups, political lobbies, and the whole spectrum of media actors” including bloggers.

To be discussed Tuesday 10 June @ 12:30-16:00 CET

*Note: This is Frank La Rue’s last report as Special Rapporteur on freedom of expression.

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/26/29) Maina Kiai

The report of the Special Rapporteur addresses online freedom of association in a number of sections, including:

Legislation governing freedom of peaceful assembly that contains explicitly discriminatory provisions:

22. Article 21 of the International Covenant on Civil and Political Rights recognizes that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. Importantly, in its resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote those rights. Despite this, some Member States have laws that contain explicitly discriminatory provisions prohibiting assemblies by certain groups.

Other legal provisions that have a disproportionate impact on the right to freedom of association of some groups:

36. In some States, laws of general application may have a disproportionate impact on the assembly rights of certain groups, whether intentionally or inadvertently. For example, laws governing the prevention and combating of offences linked to information and communications technology have the potential to be applied in ways that hinder the organization of peaceful assemblies. Youth, being the largest demographic of social media users, are particularly affected by restrictive Internet access policies. The Special Rapporteur warns that restrictions to information and communications technologies should be applied exceptionally. The general norm should be to permit the open and free use of the Internet and other forms of communications (A/HRC/23/39, para. 76).

40. Persons with disabilities may be excluded from organizing and participating in assemblies, for example, due to laws and policies that fail to provide reasonable accommodation for their specific needs. Physical barriers, such as a lack of access to public buildings and amenities such as transportation, distances that must be travelled to gather at officially sanctioned protest sites, and a lack of accommodation for facilitated communication, including in the online environment, may hinder the participation of persons with disabilities in peaceful gatherings. [...] In that regard, it may be particularly detrimental to individuals with disabilities, especially if those disabilities affect mobility. Societal attitudes that promote a lack of understanding or accommodation for persons with disabilities also constitute a significant barrier to their exercise of the right to freedom of peaceful assembly.

Challenges to the enjoyment of the right to freedom of association by groups most at risk

60. Criminal procedure laws and penal sanctions are used in several States to deter the exercise of the right to freedom of association. Authorities who are hostile to critical voices resort to criminal prosecution for defamation or similar offences, thereby discouraging and interfering with legitimate activities by groups. Organizations engaged in human rights work, anti-corruption advocacy and other accountability initiatives are particularly targeted. In Oman, between May and June 2012, 11 human rights defenders, including bloggers, writers, and members of human rights organizations and of the media, were sentenced for offences related to injurious speech and assembly.

63. As stated by the Human Rights Council, in its resolution 24/5, the right to freedom of association applies both online and offline. As such, laws that unjustifiably restrict freedom of expression on the Internet and limit the ability of people to associate over that medium are unacceptable. With youth being the most active social media users overall, restrictions placed on access to social media sites will disproportionately affect their ability to organize and mobilize for their common interests. The perception that youth in general lacks maturity and are therefore incapable of participating fully in public affairs often forms the backdrop against which some Governments feel the need to filter and dictate media content made available in their countries.

To be discussed Tuesday 10 June @ 12:30-16:00 CET

Panel discussion on the safety of journalists (Wednesday 11 June, 09:00-12:00 CET)

This panel discussion will examine the findings of the report (A/HRC/24/23) regarding good practices for the protection of journalists, the prevention of attacks committed against journalists, and the fight

against impunity for such attacks; identify challenges and good practices to ensure the safety of journalists, including sharing information on initiatives undertaken to protect them and to fight impunity for attacks committed against journalists; and promote better understanding of international human rights norms and standards relevant to the safety of journalists. Speakers include Gatechew Engida, of UNESCO; Dunja Mijatovic, the OSCE representative on Freedom of the Media; Frank La Rue, Special Rapporteur on freedom of expression; Abeer Saady, journalist and vice-president of the Syndicate of Journalists of Egypt; and Frank Smyth, journalist and senior adviser to the Committee to Protect Journalists

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises ([A/HRC/26/25](#))

The report of the Working Group specifically references the information and communications technology sector, noting that the sector was discussed in the UN's annual forum on Business and Human Rights. The Working Group also noted that it participated in the advisory committee on the process of the European Commission to develop voluntary guidelines on the implementation of the Guiding Principles in the information and communications technology sectors.

To be discussed Wednesday 11 June @12:30-16:00 CET

Report of the Working Group on the issue of discrimination against women in law and in practice ([A/HRC/26/39](#))

Violence against women

104. In addition, women are exposed to sexual harassment in the public arena, including service institutions, public transport, "street harassment," cyberbullying and pornographic advertising, producing a fear factor that severely curtails their freedom of movement and occupation. However, only 8 out of 100 States have enacted laws prohibiting sexual harassment in public places. Good practice includes prohibition of sexual harassment in the provision of services. It entails municipal responsibility for policing, lighting and introducing surveillance cameras in public spaces.

Recommendations on violence against women:

138. Take preventive measures, deter and severely punish all forms of gender-based violence and sexual harassment against women in the public arena, including public transport and services, workplaces, educational institutions, streets and cyberspace, whether it is perpetrated by state agents or by private persons.

Recommendations concerning the girl child:

117. Ensure equality for girls in the quality of education at all levels, including breaking down gender stereotypes in school curricula, teacher training programmes, textbooks and teaching materials; and encourage girls' engagement in non-traditional vocational skill areas and academic disciplines, such as mathematics, science and technology;

Structural disadvantage and discrimination throughout women's life cycle:

58. Nevertheless, there is a significant gender gap in top leadership in decision-making bodies in business, finance and trade, including in international institutions such as the IMF and the WTO. Out of the world's 2,000 top performing companies, just 29, or 1.5 per cent, had female chief executive officers in 2009. Women account for 4 per cent of chief executive officers in Fortune 500 companies and 4 per cent in information technology and telecommunications companies. In 2012, women had only 16.6 per cent of Fortune 500 Board seats, of which only 0.6 per cent were women of colour. Only 17 out of 177 governors of central banks were women in 2012 (less than 10 per cent). Women are also greatly underrepresented in the leadership of cooperatives and trade unions.

To be discussed Monday 16 June @12:30-16:00

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/26/49) Mutuma Ruteere

The Special Rapporteur focused his annual report on issues relating to the use of new information technologies, including the internet, for disseminating racist ideas, hate messages and inciting racial hatred and violence. The report examines the context, key trends and the manifestations of racism on the internet and social media, and provides an overview of the legal and policy frameworks and the measures taken at international, regional and national levels, as well as some of the regulatory norms adopted by internet and social network providers. The Special Rapporteur presents examples of measures taken to respond to the use of the internet and social media to propagate racism, hatred, xenophobia and related intolerance, while highlighting the overall positive contribution of the internet and social media as an effective tool for combating racism, discrimination, xenophobia and related intolerance.

In his conclusions and recommendations, the Special Rapporteur notes the importance of legal and policy efforts to combat hatred and incitement over the internet, but warns that legislative measures must take into account states' obligations to protect other fundamental rights, such as freedom of expression and opinion, as spelled out in both the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights, and should not be used as a pretext for censorship. The Special Rapporteur goes on to state that “[c]ombating the use of the Internet and social media to propagate racial, ethnic and xenophobic content and incitement to violence requires a multi-stakeholder approach” (A/HRC/26/49, para 66), highlighting the crucial role of the private sector.

Discussing concrete steps to counter racism online, the Special Rapporteur notes the importance of affordable access to the internet and promotion of local content particularly for those groups who are most often the targets of racial discrimination, in order to reduce information asymmetry and misperceptions that feed racist and xenophobic sentiment (A/HRC/26/49, paras 68-69).

The Special Rapporteur reminds states of the importance of recognising the fundamental role of education in combating racism, racial discrimination, xenophobia and related intolerance, encouraging the development of educational programmes and promotion of media literacy, particularly for young people.

Recognising the importance of strong movements to counter racism and intolerance online, the Special Rapporteur suggests: “*Community ownership of infrastructure, training in network and content*

management, and alternative software use, including free and open software, can help to bridge existing gaps in knowledge and access” (A/HRC/26/49 para 72).

In the report, the Special Rapporteur provides the following:

- An overview of his activities [Relevant events attended by the Special Rapporteur prior to the writing of the report listed under Section II/Subsections A and B].
- An examination of the context [Section III, Subsection A, Clauses 13, 14 and 15].
- Key trends and manifestations of racism on the internet and social media including the dissemination of racist propaganda by individuals, right-wing extremist groups and racist organisations, the resulting “mainstreaming” of such ideologies, the usage of the internet as a recruitment platform by such groups and the impact of these on marginalised persons and groups [Section III, Subsection B, Clauses 16-21].
- An overview of the legal and policy frameworks and measures taken at the international [Subsection C, Clauses 23-30], regional [Subsection C, Clauses 31-39] and national level, including the three main models that he recognises as happening cross-nationally at the domestic level [Subsection C, Clauses 40-50].
- Some of the regulatory frameworks adopted by internet and social network providers [Subsection C, Clauses 51-54].

In subsection D, he presents different examples of measures for responding to the use of the internet and social media to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance while highlighting the positive contribution of the internet and social media as an effective tool for combating racism, racial discrimination, xenophobia and related intolerance

The conclusions and recommendations are outlined in section VI.

To be discussed Tuesday 24 June @09:00-12:00 CET

Adoption of UPR Reports

Several country reports that will be adopted during HRC26 include reference to the internet:

Cambodia: *“Develop an action plan ensuring that Internet laws comply with Cambodia’s commitment to guarantee freedom of expression and information, so as to ensure free access to electronic media, liberalize electronic media ownership rules and allow national bloggers, journalists, other Internet users and NGOs to play a full and active role in promoting and protecting human rights” (Netherlands).*

Eritrea: *“Lift all the restrictions on the rights to freedom of expression and of the press, including Internet freedom and fully implement its obligations in accordance with ICCPR” (Estonia).*

Macedonia: *“Give a strong response to hate speech, including in offline and online media and systematically denounce expressions of intolerance by opinion leaders” (Bulgaria).*

New Zealand: *“Ensure protection of migrants and minority groups, in particular of those of Asian origin, from all forms of racial stereotyping and derogatory treatment, including in line with the recommendation*

of CERD to develop a comprehensive legislative framework for addressing the problem of incitement to racial hatred on the Internet” (Bangladesh).

Viet Nam: “Maintain the momentum of development of the mass media, including the Internet, so as to protect freedom of expression” (Pakistan); “Ensure that Decree 72, concerning the management, provision and use of Internet services and information online, is implemented in a manner that does not limit individuals’ rights to voice their opinions online” (Finland); “Allow bloggers, journalists, other internet users and non-governmental organizations (NGOs) to promote and protect human rights specifically by ensuring that laws concerning the Internet comply with the freedom of expression and information” (Netherlands).²

Internet-related resolutions expected at this session

It is expected that there will be a few resolutions passed at HRC26 that may include references to internet rights, including:

- Resolution on human rights and the internet – Sweden
- Resolution on the right to education – Portugal
- Resolution on violence against women – Canada

Side events and other meetings of interest

- [Open consultation](#) on the impact of intellectual property regimes on the enjoyment of the right to science and culture (Friday 6 June @10:00-13:00 CET)
- Side event on freedom of opinion and expression in electoral contexts (Thursday 12 June @11:30-13:00 CET, Room XI-A, Palais des Nations)
- Side event "[From threats to opportunities](#)”: [Business and human rights defenders](#) (Friday 13 June @12.15-13.45 CET, Room IX, Palais des Nations)
- Side event on racism and the internet (Wednesday 25 June @12:00-13:00 CET, Room XXV, Palais des Nations).

Special procedures appointments

The President of the HRC will appoint five special rapporteurs during the last week of HRC26, including the Special Rapporteur on freedom of expression. ARTICLE 19, Amnesty International, the International Service for Human Rights, the Committee for the Protection of Journalists, and Reporters Without Borders developed a [checklist](#) that sets out the requirements which prospective candidates should meet for the position of UN Special Rapporteur on freedom of expression. For a full list of candidates see: www.ohchr.org/EN/HRBodies/SP/HRC26/Pages/FreedomOpinion.aspx For a full list of special procedures being appointed at this session, see: www.ohchr.org/EN/HRBodies/SP/Pages/HRC26.aspx

Key outcomes from HRC25

- [Resolution](#) on the promotion and protection of human rights in the context of peaceful protests (A/HRC/25/L.20) – Explicitly refers to “internet users” as having an important role in documenting human rights violations or abuses committed in the context of peaceful protests [Clause 18].
See more at: www.ishr.ch/news/council-calls-protection-human-rights-context-protests

² Additional recommendations relating to the internet from Belgium, Japan, France, Ireland, Canada, Brazil, Estonia, Hungary and Pakistan.

- [Resolution](#) *on mandate of SP on human rights defenders* (A/HRC/25/L.24) – SP’s mandate extended for a period of three years. All member states strongly urged to “take concrete steps to create, in law and in practice, a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity.”
- [Resolution](#) *on mandate of SP on freedom of expression* (A/HRC/RES/25/2) – SP’s mandate extended for a period of three years.
- [Resolution](#) *on ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law* (A/HRC/25/L.32) – No specific reference to online privacy or surveillance matters, but a decision was made to organise a panel discussion at the 27th session on the protection of human rights and fundamental freedoms while countering terrorism.
- [Decision](#) adopted by the HRC in reference to the Panel on the right to privacy in the digital age (A/HRC/DEC/25/117) – Decision made to “convene, at its twenty-seventh session, a panel discussion on the promotion and protection of the right to privacy in the digital age in the context of domestic and extraterritorial surveillance and/or the interception of digital communications and the collection of personal data, including on a mass scale, also with a view to identifying challenges and best practices, taking into account the report of the United Nations High Commissioner for Human Rights requested by the General Assembly in its resolution 68/167” [Clause 1].