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Model United Nations

FORUM: The Third Committee of the General Assembly (SOCHUM)

QUESTION OF: Establishing Guidelines on the Privacy of Individuals Regarding State Mass Surveillance

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INTRODUCTION

A diverse and growing range of means and methods for surveillance has been increasing the state controlled monitoring of a large number of people about which there is no reasonable suspicion of wrongdoing. In doing so it has become a serious threat to the individual's right of privacy on an international scale.

Through indiscriminate surveillance a large part of the population is under general suspicion of wrongdoing and bulk authorisations to surveil create an environment within which all individuals become guilty until proven innocent, which can be seen as incompatible with the idea of a democratic society.

At the same time state mass surveillance is often considered as necessary means to fight organized crime and terrorism and to protect national security.

In search of developing a foundation upon which human rights as well as national security can be secured the third committee of the General Assembly is coming together to establish guidelines on the privacy of individuals regarding state mass surveillance.

DEFINITION OF KEY TERMS

Mass surveillance

Mass surveillance is the indiscriminate surveillance of a large number of people that uses systems or technologies which collect, analyse and/or generate data. These methods include the direct mass interception of communication, access to the bulk communications stored by private corporations, mass hacking, indiscriminate use of facial recognition technology and the indiscriminate surveillance of protests using mobile phone trackers.

Targeted surveillance

Contrary to mass surveillance, targeted surveillance is the monitoring and analyses of a specific individual or organization which is independently authorized, justified by a prior suspicion.

Right to privacy

Privacy is essential to autonomy and the protection of human dignity.

The right to privacy is defined in the United Nations Declaration of Human Rights from 1948 as follows: „No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

BACKGROUND INFORMATION

Ever since the whistleblower Edward Snowden leaked highclassified information about NSA surveillance programs in 2013, the extent of the worldwide state mass surveillance, especially by American and British state agencies, has been brought to attention to the public and has triggered a wave of criticism.

The surveillance of the own population and other groups is often justified as being part of a wider national security strategy. Although it is difficult to put a figure on the number of terrorist attacks prevented due to the information provided by intelligence agencies, they can play a big role in terrorism prevention. Having a simply target based surveillance program on the other hand will fail to catch possible offenders who do not arouse suspicion. Additionally the mere existence of a wide spread surveillance program may deter potential terrorists, offenders and wrongdoers out of the reasonable fear to already get caught during the planning process and could therefore help prevent crime.

But there is a number of ethical questions that remain unanswered in the justification of state mass surveillance.

Risks of State Mass Surveillance

Since mass electronic surveillance potentially opens the communications of every internet user to inspection by intelligence agencies it systematically interferes with the right to privacy of communications, which is understood as the individual's right to share information and ideas without governmental interference or the possibility of somebody else but the intended recipient to read them. Furthermore, the unjustified interferences with privacy increases the potential for power abuse by the government which can lead to the violation of other human rights such as freedom of assembly, freedom of expression, freedom of movement, principle of non discrimination and political participation, as seen in the past for example in the former German Democratic Republic.

Another criticism about mass surveillance programs is the ongoing secrecy surrounding them and the scale of surveillance that hinders an informed public debate which is a vital part of a democratic society. Moreover such a society is based upon certain criteria including freedom of expression and civil liberties which are arguably incompatible with mass surveillance. Although the mere surveillance of correspondence does not necessarily precede restriction of free speech, it does create an

environment which can lead to people feeling insecure in their behaviour out of fear of unforeseen consequences and may therefore endanger society's ability to experiment and evolve.

There is also the question of the potential for power imbalance, since the executive branch is able to act un surveilled by the legislative and judicative and does not have to warrant the surveillance, or extent thereof, of certain individuals or organizations.

MAJOR COUNTRIES AND ORGANISATIONS INVOLVED

Five Eyes

The Five Eyes (FVEY) is an intelligence alliance including the United States, the UK, Canada, Australia and New Zealand and is considered to be one of the most complex and far-reaching intelligence and espionage alliances. It expanded from a multilateral agreement for co-operation in signals intelligence formed in 1946 between the UK and the United States and is clouded in secrecy. The Five Eyes also works with several „Third Party“ countries, all Western oriented and European.

Privacy International

Privacy International is a London based charity, working „against companies and governments who exploit our data and technologies and threaten our freedom“. Their aim is to expose „mechanisms, harms, abuses operated by the industry and governments against people“, engage with and mobilise allies on a global scale and pressure companies and governments to change, if necessary by taking actions through courts.

ECHR

The European Court of Human Rights has ruled in 2018 that the UK's bulk interception of communications regime violates the right to respect for private and family life/communication stated in the European Convention of Human Rights. It particularly found the insufficient traceability and transparency of the data collected in violation of the convention, albeit not bulk collection itself.

QUESTIONS DELEGATES SHOULD CONSIDER

What is my governments position on state mass surveillance? Are they in favour or against?

Does my government run a mass surveillance program? Are there any state run intelligence agencies? How do they operate?

Does my country have any deals for the exchange of intelligence with other countries?

What rights to privacy does my government grant its citizens? Are there any definitions for the right to privacy implemented in a constitution?

Has your country already put in place guidelines on the privacy of individuals regarding mass surveillance?

USEFUL LINKS/SOURCES

<https://www.privacyinternational.org>

https://en.m.wikipedia.org/wiki/Mass_surveillance

<https://netivist.org/debate/government-surveillance-pros-and-cons-nsa-spying>

<https://theintercept.com/2014/10/15/un-investigator-report-condemns-mass-surveillance/>

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

https://en.m.wikipedia.org/wiki/Global_surveillance

<https://ukdefencejournal.org.uk/the-five-eyes-the-intelligence-alliance-of-the-anglosphere/>

<https://www.amnesty.org.uk/which-countries-access-your-data-nsa-gchq-five-eyes-snowden-surveillance>

<https://www.wired.co.uk/article/uk-mass-surveillance-echr-ruling>

https://techcrunch.com/2018/09/13/uks-mass-surveillance-regime-violated-human-rights-law-finds-echr/?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZWNvc2lhLm9yZy8&guce_referrer_sig=AQAAAAPbgXRFNMqXq3bhZ5Y1gblz_T5WchLJGpSnIzorU8G2ozPD66YeYYnf0wxiU_W787n26sP0C03Cn9EQLrSwx7h6U2Hvb8I9uFLAn4ods1e2xjZKjKmTMb2Q8H0AWb038vaFv3eCTI-l39c81kea9ys5hcEe6FBHjxeQUCCn9bwB