



## **UN Human Rights Council reaffirms the importance of protecting human rights online in the face of growing challenge**

APC welcomes the adoption of the resolution on the promotion, protection and enjoyment of human rights on the internet ([A/HRC/38/L.10](#)) on 4 July 2018. The fourth HRC resolution on this theme, this year's text includes a number of new elements that reflect the evolving importance of the internet for the exercise of human rights online and offline. Led by Sweden, Brazil, Nigeria and Tunisia, the resolution was adopted by consensus with over 60 co-sponsors. Of specific value is that it recognises the responsibilities of companies and that it elaborates on the scope of states' responsibilities with regard to human rights on the internet, including through calling on them to ensure effective remedies for internet-related human rights violations in accordance with their international obligations.

### **New elements of the resolution that APC believes are of particular value:**

#### **Responsibilities of companies**

For the first time, the HRC internet resolution recognises the responsibility of the private sector to respect human rights, citing the [UN Guiding Principles on Business and Human rights](#) drawing on the [recent report](#) of the UN Special Rapporteur on Freedom of Opinion and Expression (see [Reorienting rules for rights](#), the APC-produced illustrated summary of this report). That the resolution recognises that international human rights law should guide private sector actors and be the basis for their content moderation policies is a significant step in safeguarding human rights in the digital age. Online social media platforms are used for expression, association and access to information. They enable participation in public life, often for people who, without the internet, would not be able to do so. Companies that run these platforms regulate content in ways that lack clarity and consistency, that often violates rights, without accountability or remedy for users.

#### **Data protection and human rights**

In step with heightened public awareness about the exploitation of users' data by governments and companies alike, the resolution expresses concern about arbitrary or unlawful collection, retention, processing, and use or disclosure of personal data on the internet that could violate or abuse human rights. It also urges states to adopt, implement and, where necessary, reform

laws, regulations, policies and other measures concerning personal data and privacy protection online, in order to prevent, mitigate and remedy human rights violations that result from such exploitation practices.

### **Secure, confidential and anonymous communications**

The resolution recognises that encryption and anonymity can be important for a range of human rights and encourages the private sector to work towards enabling technical solutions to secure and protect the confidentiality of digital communications. It calls on states not to interfere with the use of tools for encryption and anonymity in line with their obligations under international human rights law. It specifically calls on states to allow journalists to secure their communications and protect the confidentiality of their sources. We welcome these additions to the text, especially in light of the increasing threats to journalists and their sources. For human rights defenders and others at risk - such as people who face discrimination based on their sexual orientation and gender identity - encryption and anonymity online are often critical for their safety and enjoyment of human rights.

### **Freedom of expression under threat**

With attacks on freedom of expression online taking many forms, from internet shutdowns and regressive cybercrime laws to privatisation of censorship, among others, the resolution rightfully draws attention to state-sponsored restrictions on freedom of opinion and expression online. It also condemns all undue restrictions of freedom of opinion and expression online that violate international law, and notes with concern that such restrictions have a significant impact on women and girls and other individuals who may face multiple and intersecting forms of discrimination. It is regrettable that specific examples of state-sponsored censorship were not ultimately included in the text, especially as governments around the world are criminalising dissent and pluralistic expression through laws and extralegal measures; however, this should not detract from the significance of the resolution committing states to ensure that all domestic laws, policies and practices are consistent with their international human rights obligations with regard to freedom of opinion and expression online.

### **Awareness of information that may be misleading or false**

The resolution expresses concern about the spread of disinformation and propaganda on the internet, which can be designed and implemented so as to mislead people, violate human rights, and incite violence, hatred, discrimination or hostility. While we understand the concern that this reflects, we also feel this text is cause for concern as allegations of being misleading can be used to stifle legitimate political and social critique and restrict free and independent media. Moreover, it is not uncommon for states or agencies acting on their behalf to be the sources of misleading information. Campaigns aimed at raising awareness should at all times reaffirm the fundamental rights of freedom of expression and opinion, access to information and association. While we appreciate the resolution's emphasis on media training, awareness raising, educational campaigns and other efforts, we encourage states to build general media literacy and encourage critical thinking rather than focus efforts aimed at identifying information online that may be deliberately misleading or false. The Joint Declaration on Freedom of Expression and "Fake News", Disinformation and Propaganda from the UN and regional mandates on freedom of expression include important guidance on this issue.

## **Advancing women's rights online**

Women face persistent and widespread barriers to exercising their human rights online, barriers that are rooted in historical and structural inequalities in power relations. The resolution includes important commitments by states to address inhibitors to information and communication technologies (ICT) access and use by women as part of their obligation to respect, protect and fulfil all human rights. Drawing on the Office of the High Commissioner on Human Rights' report on Bridging the Gender Digital Divide from a Human Rights Perspective, the resolution recognises violations and abuses of women's rights online as a global growing concern that may deter women from using ICTs, thereby exacerbating the gender digital divide and widening gender inequalities in society.

Consistent with the resolution on online violence against women (VAW), this resolution also unequivocally condemns online sexual and gender-based violence and abuse of women and online attacks on women, in particular in instances where women journalists, media workers, public officials or others engage in public debate and are targeted for their expression, and calls for gender-sensitive responses that take into account the particular forms of online discrimination. The resolution also calls on states to promote gender equality in the design and implementation of ICTs and to mainstream a gender perspective in policy decisions and the frameworks that guide them. Gender equality must be promoted in the design and implementation of ICTs not only as an effective way to facilitate women's meaningful access and use of the internet, but also to ensure that new and emerging data-driven technologies are human rights compliant and do not replicate or exacerbate existing patterns of discrimination against women.

## **Human rights-based approaches to bridging digital divides**

Building on the 2016 resolution, this year's text provides more specific guidance for states on bridging digital divides in order to promote the full enjoyment of human rights for all, including by: fostering an enabling online environment that is safe and conducive to engagement by all, without discrimination and with consideration for individuals facing systemic inequalities; addressing divides in digital literacy; and applying a comprehensive, human rights-based approach in providing and expanding access to ICTs with specific attention to gender considerations.

As in 2016, the language on a human rights-based approach faced significant pushback from some states that claimed that it is unclear or vague. To APC, it is quite clear what a human rights-based approach means. It means developing and implementing policies that enable everyone in society to access the benefits of the internet so that they are able to exercise their human rights online and offline. This requires addressing economic, social and cultural barriers to access, facilitating access to information and knowledge, and respecting the right to privacy so that there is trust in the technology and those who manage, develop and resell it. Among the different models for human rights-based approaches to bridging digital divides, community networks networks offer promise for empowering people who are generally excluded, and for mobilising the role of the internet as an enabler of human rights and contributing to achieving the sustainable development goals (SDGs) through access to information and human capacity development.

## **Internet universality indicators**

We value that the resolution takes note of the launch by the UNESCO General Conference of a process to develop an Internet Universality Indicator Framework based on the ROAM (Rights - Openness - Access - Multistakeholder) principles. APC has been part of this process and believes that it will become a valuable learning tool for states and others concerned with human rights online.

Finally, we regret that over the course of negotiations, some of the more progressive and forward-looking elements faced persistent resistance and did not make it into the consensus text. We believe that the resolution could have been even stronger had some states not worked resolutely to redirect the focus of the text away from promoting and protecting human rights online to issues of sovereignty, cybersecurity and countering terrorism and crime, all concerns which are frequently used as pretexts for criminalising political dissent and other forms of legitimate expression and assembly. That consensus was only achieved after concessions were made to include broad and vague language on the use of ICTs by "terrorists and their supporters" is unfortunate. Nonetheless, the HRC has once again spoken with one voice with the support of states in all regions, reaffirming the global applicability of human rights online with new concrete commitments made by states in the face of growing threats to human rights online, and offline. APC commends efforts by the core group to advance international standards and consensus around the protection of human rights online and urges all states to uphold the commitments contained in this resolution.