



**THEMATIC RESOLUTIONS ADOPTED AT THE NGOs FORUM PRECEDING THE
65TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND
PEOPLES' RIGHTS AND 39TH AFRICAN HUMAN RIGHTS BOOKFAIR**

17-19 OCTOBER, 2019 - PARADISE SUITES HOTEL - KOLOLI, THE GAMBIA

TRES/001/010/19: THEMATIC RESOLUTION ON THE RIGHT TO PRIVACY

We, the participants at the Forum on the participation of NGOs preceding the 65th Ordinary Session of the African Commission on Human and People's Rights and 39th African Human Rights Bookfair held from 17-19 October, 2019 at the Paradise Suites Hotel in Kololi, The Gambia;

Reaffirming the importance of the right to human dignity as the foundational value which undergirds all human rights.

Recognising in particular the inextricable link between human dignity, in the sense of the full, free realisation of an individual's world view, and the rights to freedom of expression, access to information, and the right to privacy.

Observing that an individual's ability to fully exercise their fundamental right to freedom of expression depends on their ability to communicate securely and safely and without arbitrary interference.

Noting with concern the prevalence of infringements on people's ability to freely express their opinions and be exposed to diverse opinions due to the broad, arbitrary powers exercised by governments to conduct mass surveillance and undertake mass data collection programs without independent judicial oversight; the weak regulation of the private sector including telecommunications, digital technology companies and internet service providers, whose conduct has exacerbated violations of individuals' fundamental rights and freedoms with impunity in the digital age in contravention of international human rights norms.

Noting further the need for the recognition of the right to privacy in Africa to resolve many of the challenges faced in the realm of freedom of expression and access to information, in particular the protection of groups at most risk such as human right defenders, journalists and marginalised communities.

Reaffirming the African Charter on Human and Peoples' Rights, the Universal Declaration of Human Rights – particularly Articles 1, 12 & 19, the United Nations

Resolution 68/167 on the Right to Privacy in the Digital Age, the African Union Convention on Cyber Security and Personal Data Protection, and African Commission Resolution 362 on the Right to Freedom of Information and Expression on the Internet in Africa - ACHPR/Res. 362(LIX) 2016.

The NGOs Forum therefore calls on the African Commission on Human and Peoples' Right to resolve:

1. That human dignity, as contained in Article 5, read with right to respect for life and the integrity of the person and the right to liberty and security of the person, contained in Articles 4 and 6, of the African Charter on Human and People's Rights is the core right and value which underpins the need for the respect, recognition and promotion of the right to privacy of all people in Africa;
2. To accept that effective respect and promotion of this right is necessary for the enjoyment of a range of human rights, including freedom of expression, access to information, association and peaceful assembly;
3. That the above recognition of the importance and validity of the right to privacy ought to inform and be fully embedded in the updated Declaration of the Principles of Freedom of Expression in Africa arising from African Commission Resolution 362 (LIX) on the Right to Freedom of Information and Expression on the Internet in Africa;
4. That the mandate of the Special Rapporteur on Freedom of Expression and Access to Information should include privacy and digital rights concerns where these impinge on the ability to communicate and receive opinions freely. Specifically including a focus on:
 - a. Unlawful, disproportionate or unwarranted state surveillance and the private enterprises, which facilitate such measures by providing the technological tools and facilities to do so;
 - b. The use of anti-terrorism and cybercrimes laws to unjustifiability and disproportionately infringe human rights;
 - c. The role of the private sector in conducting unlawful collection and processing of their customers personally identifiable information;
 - d. Regulation of the costs of access to the internet, and content and platform neutrality online;

- e. The prevalence of 'internet shutdowns' in African States, particularly during periods of social protest and elections;
- f. The need for the enactment of data protection laws and the establishment of data protection authorities in Africa;
- g. Regulation of the processing of personal data, which can directly or indirectly identify individuals, by public and private bodies, and in particular the need for the processing of sensitive personal data such as biometrics to be subject to stronger safeguards.

Done in Banjul, The Gambia – 19th October, 2019

END