

Privacy: Yes! But not at the ITU

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People are worried about their privacy. We are worried about people's privacy. Governments, civil society, academia, and the private sector need to have conversations about privacy at the national and the international levels. However, we at Public Knowledge, ARTICLE 19, and Access Now are concerned by the proposals of certain governments to make the International Telecommunication Union (ITU), a United Nations agency, a key international forum for addressing privacy. The structure and mandate of the ITU render an environment that does not have the capacity or expertise to do so. States should turn to better suited existing instruments and forums, such as bilateral and multilateral agreements, national laws, and other frameworks.

Any discussion of the regulatory or policy aspects of privacy must be driven by the public interest, which should be determined through a human rights framework. These discussions must be conducted in open and transparent forums. The ITU, however, is neither an open forum, nor one that is specialized to address privacy. The ITU does have the potential to become a more open and multistakeholder forum, one in which non-state actors can take a more meaningful role in its decision-making processes. Nevertheless, it must abstain from further mandate expansion.

Yet, discussions on privacy have cropped up at the ITU again, most recently during the World Telecommunications Development Conference (WTDC)--the main conference of the ITU's Development sector, ITU-D--taking place in Argentina during October 2017. In a range of proposals on cybersecurity and other topics, Brazil, Mexico, the regional group of Arab States and the regional group formed by Russia and many former Soviet republics have all suggested that the ITU should expand its mandate farther, into privacy-related issues.

These proposals are part of a dangerous trend for the future of open and multistakeholder Internet governance. Even if some consolidated democracies may have the best intentions in trying to find a forum to address privacy issues, it is clear that the ITU is, by any standard, not an appropriate environment to do so. We can highlight two major reasons why.

First, the structure of the ITU renders itself vulnerable to harmful types of politicization, as states and regional coalitions seek to leverage this forum to grab greater control over Internet policy and standards development. Unlike the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet Engineering Task Force (IETF), or the Internet Governance Forum (IGF), the ITU isn't a multistakeholder community: the only relevant actors at the ITU are Member States. Though private industry and other stakeholders may contribute to technical work, they may only participate as non-voting Sector Members. And although the work of the ITU has significant implications for the future of the Internet as a civic space, there is no major foothold for civil society to engage in or even follow the discussions.

Under these circumstances, this politicization threatens to co-opt any discussion on privacy, as certain Member States may claim to protect user privacy interests in order to validate problematic policy or standards proposals--proposals that may actually result in greater harm to privacy and other human rights online. With a structural lack of transparency or openness, these fallacious assertions can persist in the ITU unchecked.

Second, the ITU has a clear and narrow mission and objective: to facilitate the interoperability of telecommunications infrastructure. The scope of the ITU's work is therefore restricted to its highly particularized capacity and expertise; any expansion of mandate into other aspects of telecommunications and ICTs would not be appropriate.

It is crucial for civil society to actively participate in the ITU's processes, by engaging with their respective national delegations and by observing and engaging in physical meetings, wherever possible. Even if ITU decision-making remains behind closed doors, robust civil society participation through the ITU's open consultation opportunities and through coordination with national delegations can nevertheless bolster Members that seek to curb the ITU's penchant for mandate expansion--while putting pressure on those that do not.

ARTICLE 19, Access Now, and Public Knowledge aim to bring other civil society actors to ITU discussions. Contact us if you are interested in learning more.

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