Human Rights in Cyber-Space – March 12, 2018
Conference Summary

On March 12th, 2018 a side event entitled "Human Rights in Cyber-Space" was convened in the Human Rights Committee 37th Session in Geneva. The event was co-organized by the Permanent Missions of Israel and Germany to the UN in Geneva, and the Hebrew University of Jerusalem's Cyber Security Research Center.

The first panelist in the event was Professor Anja Seibert-Fohr from Heidelberg University. Prof. Seibert-Fohr focused on the challenges of applying international human rights law to cyberspace. According to Seibert-Fohr, the relevant normative framework already exists - Article 17 of the International Covenant on Civil and Political Rights (ICCPR), defining the right to privacy. This Article was already subject to a General Comment in 1988, which prohibited electronic surveillance and stated that gathering of personal information should be regulated under the law. Seibert-Fohr elaborated on a key standard in this regard, the requirement that any interference with the right to privacy must not be 'arbitrary'; according to the Human Rights Committee, any kind of interference with the right to privacy requires justification - it needs to be legal, proportionate and necessary. The Committee has also defined necessary procedural safeguards, such an independent oversight mechanism or a requirement for an ex-post notification to people who were subject to surveillance. Seibert-Fohr also regarded the question of applicability of article 17 in surveillance in a transnational communication, explaining that the Committee's perception is that as soon as a state party exercises jurisdiction outside the country, it is bound by the necessary safeguards under the Covenant.

The second panelist was Professor Yuval Shany from The Hebrew University of Jerusalem Cyber Security Research Center. Prof. Shany focused on the need for further development of rights and a new understanding of obligations in cyber-space. He pointed on three main clusters in the development of human rights in cyberspace, as defined by the UN human rights bodies in recent years: first, the assertion that the same rights that people have offline, they enjoy online as well, and that the internet is an important tool for the development and exercising of human rights. Second, states should facilitate access to the Internet in order to allow individuals to realize their potential rights. And the third cluster regards to the role of other stakeholders; states should enhance cooperation with civil society, academia, and private sector to promote human rights online. The resolutions adhere to the concept of corporate

social responsibility, although he exact nature and remedies of that responsibility remain in question. Prof. Shany suggests to conceptualize three generations of digital rights: The first generation of digital rights includes the application and adjustment of human rights from the offline world to the online world. The second generation of digital rights includes rights that protect the online activity and does not have exact parallels in the offline activity ('new rights' such as the right for information self-determination or the right for data portability. The third generation of rights is the Online Persona's rights; an independent holder of rights which commences its life after we-humans are born but may terminate their life long after they are dead because the information kept in cyberspace.

The third panelist was <u>Ms. Ilia Maria Siatitsa</u>, from The Geneva Academy. Her lecture focused on the special challenge of regulating on-line speech. Siatitsa asserts that today, the risk of over-regulation of online speech is eminent, and one of the main reasons for that is that the regulation is primarily privatized. As a result of this privatization, the reasons in which online content could be removed have become broader than the traditional basis for removing content under international human rights law (provided in article 19 of the ICCPR). The internet space is dominated by private actors, who have a set of criteria to decide whether certain blogs, posts, or discussions should be removed. She underlined the problem of lack of transparency with regard to online content removal.

The last panelist was <u>Mr. Jean-Yves Art, Director of Strategic Partnerships, Microsoft</u>. Mr. Art elaborated on the role of the IT industry in the protection and promotion of on-line human rights. Mr. Jean-Yves Art argued that private IT companies have a significant role in protecting and promoting on-line human rights. This is mainly because, the violation of human rights usually takes place on assets that belong to the private sector; the private sector is usually the first respondent to attacks or infringements of human rights. Second, the IT sector owns assets which are becoming increasingly important for the enjoyment of human rights - The companies' assets are an enabler of human rights. He emphasized that the digital space is the place where the private sector has the ability and responsibility to work with the public sector in protecting human rights.