

Encryption: A Fundamental Right...But Only as Absolute a Right as Privacy Itself

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In my maiden report as UN Special Rapporteur to Privacy in March 2016 I encouraged all Governments to respect and indeed promote the right to encryption. In this contribution to this welcome workshop in Jerusalem, I will examine the developments over the three years since then and explain as to how they have reinforced my belief that the right to encryption is as fundamental as the right to privacy itself. This assessment will also outline the concomitant limitations of this right and the corresponding right of states to deploy various technical means to get around encryption provided that this is a provided for by law as a measure which is necessary and proportionate in a democratic society. While doing so it will also question the right of states to demand let alone forcibly compel citizens, both theirs and those of other states, to surrender the keys to encrypted material.