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Encryption and Anonymity are Vital to Safeguarding Digital Speech

A Submission by the Centre for Law and Democracy to the UN Special Rapporteur on Freedom of Opinion and Expression notes the importance of encryption and anonymity tools to online speech and sets out five key Principles which should guide future discussions on these issues. The Principles include a significant need for transparency around surveillance measures, robust procedural oversight over intelligence and surveillance authorities, controls on the export of advanced surveillance technology to repressive States and the need for surveillance activities to be limited and targeted and, in particular, to strike an appropriate balance between security needs and the rights to freedom of expression and privacy.

“We recognise that, in a digital world, digital surveillance is an important tool for law enforcement and intelligence authorities,” said CLD Executive Director Toby Mendel. *“However, surveillance represents a restriction on freedom of expression and privacy and is therefore legitimate only where it meets strict tests of balance and proportionality.”*

The Principles note that encryption and anonymity tools are necessary to protect the security of digital communications, which in turn is important to supporting the candour of speech. As with any restriction on freedom of expression, surveillance policies and practices must be assessed according to the three-part test for such restrictions found at Article 19(3) of the *International Covenant on Civil and Political Rights*.

The Submission was prepared in response to a call for input by the Special Rapporteur, who is drafting a Report on these issues to be presented to the Human Rights Council in June 2015.

The Submission is available at: www.law-democracy.org/live/encryption-and-anonymity-are-vital-to-safeguarding-digital-speech.

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