

19 November 2013

To the Co-Chairs of the Open Government Partnership

Mr. Kuntoro Mangkusubroto
Mr. Julián Alfonso Olivas Ugalde
Mr. Rakesh Rajani

Statement of Concern on Disproportionate Surveillance

We, the undersigned civil society organisations, affirm our deep commitment to the goals of the Open Government Partnership, which in its declaration endorsed “more transparent, accountable, responsive and effective government,” founded on the principles of the Universal Declaration of Human Rights.

We join other civil society organisations, human rights groups, academics and ordinary citizens in expressing our grave concern over allegations that governments around the world, including many OGP members, have been routinely intercepting and retaining the private communications of entire populations, in secret, without particularised warrants and with little or no meaningful oversight. Such practices allegedly include the routine exchange of “foreign” surveillance data, bypassing domestic laws that restrict governments’ ability to spy on their own citizens.

These practices erode the checks and balances on which accountability depends, and have a deeply chilling effect on freedom of expression, information and association, without which the ideals of open government have no meaning.

As Brazil’s President, Dilma Rousseff, recently said at the United Nations, “*In the absence of the right to privacy, there can be no true freedom of expression and opinion, and therefore no effective democracy.*”

Activities that restrict the right to privacy, including communications surveillance, can only be justified when they are prescribed by law, are necessary to achieve a legitimate aim, and are proportionate to the aim pursued.¹ Without firm legislative and judicial checks on the surveillance powers of the executive branch, and robust protections for the media and public interest whistleblowers, as outlined in the Tshwane Principles², abuses can and will occur.

We call on all governments, and specifically OGP members, to:

- recognise the need to update understandings of existing privacy and human rights law to reflect modern surveillance technologies and techniques.
- commit in their OGP Action Plans to complete by October 2014 a review of national laws, with the aim of defining reforms needed to regulate necessary,

¹ International Principles on the Application of Human Rights to Communications Surveillance

² Tshwane Principles on National Security and the Right to Information (<http://www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles> - <http://www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles>).

legitimate and proportional State involvement in communications surveillance; to guarantee freedom of the press; and to protect whistleblowers who lawfully reveal abuses of state power.

- commit in their OGP Action Plans to transparency on the mechanisms for surveillance, on exports of surveillance technologies, aid directed towards implementation of surveillance technologies, and agreements to share citizen data among states.

SIGNED:

International and regional organisations

1. ACCESS Info Europe
2. Africa Freedom of Information Centre
3. Alianza Regional por la Libre Expresión e Información
4. ARTICLE 19, Global Campaign for Free Expression
5. Centre for Law and Democracy
6. Commonwealth Human Rights Initiative (CHRI)
7. CIVICUS World Alliance for Citizen Participation
8. Global Integrity
9. Global Network Initiative
10. Hivos
11. Oxfam International
12. Privacy International
13. World Wide Web Foundation

National organisations

1. Acción Ciudadana, Guatemala
2. ActiveCitizen, Ireland
3. Africa Center for Open Governance, Kenya
4. Aktion Freiheit statt Angst e.V. (Freedom Not Fear), Germany
5. Anti-Corruption Trust of Southern Africa, South Africa
6. Association EPAS, Romania
7. Asociación para una Sociedad Más Justa, Honduras
8. Bolo Bhi, Pakistan
9. Center for Effective Government, USA
10. Center for Independent Journalism, Romania
11. Center for Peace Studies, Croatia
12. Center for Public Interest Advocacy, Bosnia Herzegovina
13. Centro Internacional para Investigaciones en Derechos Humanos, Guatemala
14. Centro for Public Integrity, Mozambique
15. Centrum Cyfrowe Projekt, Poland
16. Charity & Security Network, USA
17. Civil Society Legislative Advocacy Centre (CISLAC), Nigeria
18. Citizens for Responsibility and Ethics in Washington (CREW), USA
19. Corruption Watch, UK
20. Defending Dissent Foundation, USA
21. Democracy Watch, Canada
22. Digital Courage, Germany
23. Digital Rights Foundation, Pakistan
24. Diritto Di Sapere, Italy
25. e-Governance Academy, Estonia
26. East European Development Institute, Poland
27. Economic Research Center, Azerbaijan
28. Federal Accountability Initiative For Reform, Canada
29. Freedom of Information Center, Armenia
30. Freedom of Information Forum, Austria (FOIAustria)
31. Freedom of Information Foundation, Russia
32. Fundar, Center for Research and Analysis, Mexico
33. GESOC, Mexico
34. Global Human Rights Communications, India
35. GodlyGlobal.org, Switzerland

- 36. GONG, Croatia
- 37. Hong Kong In-Media, Hong Kong
- 38. Hungarian Civil Liberties Union
- 39. Independent Journalism Center, Moldova
- 40. INESC, Brazil
- 41. Initiative für Netzfreiheit, Austria
- 42. Institute for Development of Freedom of Information, Georgia
- 43. Instituto Mexicano para la Competitividad A.C., Mexico
- 44. International Records Management Trust, UK
- 45. Integrity Action, UK
- 46. IT for Change, India
- 47. Iuridicum Remedium, Czech Republic
- 48. Media Rights Agenda, Nigeria
- 49. Mazdoor Kisan Shakti Sangathan (Association for the Empowerment of Workers and Peasants), India
- 50. NATO Watch, UK
- 51. Obong Denis Udo-Inyang Foundation, Nigeria
- 52. OneWorld – Platform for Southeast Europe (OWPSEE), Europe
- 53. openDemocracy.net, UK
- 54. Open Democracy Advice Centre, South Africa
- 55. Open Australia Foundation
- 56. Open Government Institute, Moldova
- 57. Open the Government.org, USA
- 58. Open Knowledge Foundation, UK
- 59. Open Knowledge Foundation Ireland
- 60. Open Rights Group, UK
- 61. Paradigm Initiative, Nigeria
- 62. Paraguayan Association of Information Technology Law, Paraguay
- 63. Philippines Internet Freedom Alliance
- 64. Privacy and Access Council of Canada – Conseil du Canada de l'Accès et la vie Privée
- 65. PRO Media, Macedonia
- 66. PROETICA PERU
- 67. Project On Government Oversight, USA
- 68. Public Concern at Work, UK
- 69. Public Virtue Institute, Indonesia
- 70. Publish What You Pay Indonesia
- 71. Request Initiative, UK
- 72. Sahkar Social Welfare Association, Pakistan
- 73. Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC), University of Ottawa
- 74. Shaaub for Democracy Culture Foundation, Iraq
- 75. Social Research and Development Center, Yemen
- 76. Soros Foundation Romania, Romania
- 77. TEDIC, Paraguay
- 78. Transparencia por Colombia
- 79. Transparency International Armenia
- 80. Transparency International Bosnia and Herzegovina
- 81. Transparency International Indonesia
- 82. Transparency International Ireland
- 83. Transparency International Macedonia
- 84. Transparency International Mongolia
- 85. Transparency International Switzerland
- 86. Unwanted Witness, Uganda
- 87. Water Governance Institute (WGI), Uganda
- 88. Whistleblowers Network, Germany
- 89. Youth Advocate Program International, Inc, USA
- 90. Zenu Network, Cameroon

Individuals

- 1. Aruna Roy, Founder, MKSS India and member of India's National Advisory Council
- 2. Tim Berners-Lee
- 3. Vinod Rai, Former Comptroller and Auditor General, India
- 4. Rebecca MacKinnon
- 5. Satbir Singh, Commonwealth Human Rights Initiative and Co-Chair, South Asian Right to Information Advocates Network
- 6. David Eaves
- 7. Dissanayake Dasanayaka
- 8. Dwight E. Hines, Ph.D
- 9. Ernesto Bellisario
- 10. Nikhil Dey
- 11. Petru Botnaru
- 12. Shankar Singh
- 13. Sowmya Kidambi
- 14. TH Schee
- 15. Jacques Le Roux
- 16. Andrei Sambra
- 17. Christophe Dupriez
- 18. Sanjana Hattotuwa

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- 20. Bouziane Zaid
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- 23. Simon Ontoyin
- 24. Yinglee Tseng
- 25. Sonigitu Ekpe
- 26. Frank van Harmelen
- 27. Phil Coates
- 28. Josefina Aguilar
- 29. Juned Sonido
- 30. Fatima Cambronero
- 31. Jonathan Hipkiss
- 32. Lucie Perrault
- 33. Bouziane Zaid
- 34. Per Martens
- 35. Simon Ontoyin
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- 38. Gbenga Sesan
- 39. Mohamed ElGohary
- 40. D.M.Dissanayake
- 41. Sana Saleem
- 42. Renata Avila Pinto
- 43. Carolina Rossini
- 44. Phil Longhurst
- 45. Mark Townsend
- 46. Badouin Schombe
- 47. Sarah Copeland
- 48. Jelena Heštera
- 49. Brian Leekley
- 50. Katrin Verclas
- 51. Ian David
- 52. Judyth Mermelstein
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- 55. Daniele Pirolo
- 56. Nick Herbert
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- 58. Ion Ghergheata
- 59. Mark Hughes
- 60. Elena Tudor
- 61. Thomas C. Ellington
- 62. Susan Ariel Aaronson, Ph.D.
- 63. Peter Gunther
- 64. Mark Charles Rosenzweig
- 65. Panthea Lee
- 66. Douglas Redding
- 67. Mark Wilhelmi
- 68. C. Worth
- 69. Sriram Sharma
- 70. Ben Huser
- 71. Zach Ross
- 72. Albo P Fossa
- 73. Ian Tolfrey
- 74. Jay Campbell
- 75. Beth Alexander
- 76. Crisman Richards
- 77. Jorge Luis Sierra
- 78. Linda Strasberg
- 79. Mawaki Chango, Ph.D.
- 80. Giang Dang
- 81. Nica Dumlauf
- 82. Walter Keim
- 83. Tur-Od Lkhagvajav
- 84. Dr. Mridula Ghosh
- 85. Anthony Barnett