

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.

¹ International Principles on the Application of Human Rights to Communications Surveillance (<https://en.necessaryandproportionate.org/text>).

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>).

- 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, 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

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| 1. ACCESS Info Europe | 5. CIVICUS World Alliance for Citizen Participation |
| 2. Alianza Regional por la Libre Expresión e Información | 6. Global Integrity |
| 3. ARTICLE 19, Global Campaign for Free Expression | 7. Global Network Initiative |
| 4. Commonwealth Human Rights Initiative (CHRI) | 8. HIVOS |
| | 9. Oxfam International |
| | 10. Privacy International |
| | 11. World Wide Web Foundation |

National organisations

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

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

16. Andrei Samba
17. Christophe Dupriez
18. Sanjana Hattotuwa
19. Morgan Marquis-Boire
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23. Simon Ontoyin
24. Yinglee Tseng
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28. Josefina Aguilar
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30. Fatima Cambronero
31. Jonathan Hipkiss
32. Lucie Perrault
33. Bouziane Zaid
34. Per Martens
35. Simon Ontoyin
36. Morgan Marquis-Boire
37. Leila Nachawati
38. Gbenga Sesan
39. Mohamed ElGohary
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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
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53. Anna Myers
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58. Ion Ghergheata
59. Mark Hughes
60. Elena Tudor
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63. Peter Gunther
64. Mark Charles Rosenzweig
65. Panthea Lee
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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 Dumlau
82. Walter Keim
83. Tur-Od Lkhagvajav
84. Dr. Mridula Ghosh