

17 December 2013

To the Co-Chairs of the Open Government Partnership

Hon. Kuntoro Mangkusubroto
Hon. Alejandra Lagunes
Ms. Suneeta Kaimal
Mr. Rakesh Rajani

Cc: Jourdan Hussein, Ania Calderón Mariscal; OGP Steering Committee members;
OGP members

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 Rouseff, 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:

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

²Tshwane 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>).

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

National organisations

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| 1. Access to Information Programme, Bulgaria | 15. Centro Internacional para Investigaciones en Derechos Humanos, Guatemala |
| 2. Acción Ciudadana, Guatemala | 16. Centro for Public Integrity, Mozambique |
| 3. Active Citizen, Ireland | 17. Centrum Cyfrowe Projekt, Poland |
| 4. Africa Center for Open Governance, Kenya | 18. Charity & Security Network, USA |
| 5. AktionFreiheitstatt Angst e.V. (Freedom Not Fear), Germany | 19. Civil Society Legislative Advocacy Centre (CISLAC), Nigeria |
| 6. Anti-Corruption Trust of Southern Africa, South Africa | 20. Citizens for Responsibility and Ethics in Washington (CREW), USA |
| 7. Association EPAS, Romania | 21. Citizens United to Promote Peace & Democracy in Liberia |
| 8. Asociación para una Sociedad Más Justa, Honduras | 22. Corruption Watch, UK |
| 9. Bolo Bhi, Pakistan | 23. Defending Dissent Foundation, USA |
| 10. Brazilian Society for Knowledge Management (SBGC) | 24. Democracy Watch, Canada |
| 11. Center for Effective Government, USA | 25. Digital Courage, Germany |
| 12. Center for Independent Journalism, Romania | 26. Digital Rights Foundation, Pakistan |
| 13. Center for Peace Studies, Croatia | 27. Diritto Di Sapere, Italy |
| 14. Center for Public Interest Advocacy, Bosnia Herzegovina | 28. e-Governance Academy, Estonia |

29. East European Development Institute, Poland
30. Economic Research Center, Azerbaijan
31. Federal Accountability Initiative For Reform, Canada
32. Foundation Open Society (FOSM), Macedonia
33. Freedom of Information Center, Armenia
34. Freedom of Information Forum, Austria (FOIAustria)
35. Freedom of Information Foundation, Russia
36. Fundar, Center for Research and Analysis, Mexico
37. GESOC, Mexico
38. Global Human Rights Communications, India
39. GodlyGlobal.org, Switzerland
40. GONG, Croatia
41. Hong Kong In-Media, Hong Kong
42. Hungarian Civil Liberties Union
43. Independent Journalism Center, Moldova
44. INESC, Brazil
45. Initiative für Netzfreiheit, Austria
46. Institute for Democracy 'Societas Civilis'-Skopje (IDSCS), Macedonia
47. Institute for Development of Freedom of Information, Georgia
48. Instituto Mexicano para la Competitividad A.C., Mexico
49. International Records Management Trust, UK
50. Integrity Action, UK
51. IT for Change, India
52. Iuridicum Remedium, Czech Republic
53. Media Rights Agenda, Nigeria
54. Mazdoor Kisan Shakti Sangathan (Association for the Empowerment of Workers and Peasants), India
55. NATO Watch, UK
56. Obong Denis Udo-Inyang Foundation, Nigeria
57. OneWorld – Platform for Southeast Europe (OWPSEE), Europe
58. openDemocracy.net, UK
59. Open Democracy Advice Centre, South Africa
60. Open Australia Foundation
61. Open Government Institute, Moldova
62. Open Ministry, Finland
63. Open the Government.org, USA
64. Open Knowledge Finland
65. Open Knowledge Foundation, UK
66. Open Knowledge Foundation Ireland
67. Open Rights Group, UK
68. Paradigm Initiative, Nigeria
69. Paraguayan Association of Information Technology Law, Paraguay
70. Philippines Internet Freedom Alliance
71. Privacy and Access Council of Canada – Conseil du Canada de l'Accès et la vie Privée
72. PRO Media, Macedonia
73. PROETICA PERU
74. Programa Estudiantil Juventud Siglo XXI, Mexico
75. Project on Government Oversight, USA
76. Public Concern at Work, UK
77. Public Virtue Institute, Indonesia
78. Publish What You Pay Indonesia
79. Request Initiative, UK
80. Sahkar Social Welfare Association, Pakistan
81. Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC), University of Ottawa
82. Shaaub for Democracy Culture Foundation, Iraq
83. Social Research and Development Center, Yemen
84. Soros Foundation Romania, Romania
85. Stati Generali dell'Innovazione, Italy
86. TEDIC, Paraguay
87. Transparencia por Colombia
88. Transparency International Armenia
89. Transparency International Bosnia and Herzegovina
90. Transparency International Indonesia
91. Transparency International Ireland
92. Transparency International Macedonia
93. Transparency International Mongolia
94. Transparency International Switzerland
95. Unwanted Witness, Uganda
96. Water Governance Institute (WGI), Uganda
97. Whistleblowers Network, Germany
98. Youth Advocate Program International, Inc, USA
99. 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
19. Morgan Marquis-Boire
20. Bouziane Zaid
21. Pehr Mårtens
22. Matthew Landauer
23. Simon Ontoyin
24. Yinglee Tseng
25. Sonigitu Ekpe
26. Frank van Harmelen
27. Phil Coates
28. Josefina Aguilar
29. Juned Sonido
30. Fatima Cambroner
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 El Gohary
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
53. Anna Myers
54. Knut Gotfredsen
55. Daniele Pitrolo
56. Nick Herbert
57. Eliana Quiroz
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 Dumlaui
82. Walter Keim
83. Tur-Od Lkhagvajav
84. Dr. Mridula Ghosh
85. Anthony Barnett
86. Christian Heise
87. Eduardo Vergara Lope de la Garza
88. Neide De Sordi