

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. DATA, Uruguay |
| 10. Brazilian Society for Knowledge Management (SBGC) | 24. Defending Dissent Foundation, USA |
| 11. Center for Effective Government, USA | 25. Democracy Watch, Canada |
| 12. Center for Independent Journalism, Romania | 26. Digital Courage, Germany |
| 13. Center for Peace Studies, Croatia | 27. Digital Rights Foundation, Pakistan |
| 14. Center for Public Interest Advocacy, Bosnia Herzegovina | 28. Diritto Di Sapere, Italy |
| | 29. e-Governance Academy, Estonia |

30. East European Development Institute, Poland
31. Economic Research Center, Azerbaijan
32. Federal Accountability Initiative For Reform, Canada
33. Foundation Open Society (FOSM), Macedonia
34. Foundation for Science and Liberal Arts Domus Dorpatensis, Estonia
35. Freedom of Information Center, Armenia
36. Freedom of Information Forum, Austria (FOIAustria)
37. Freedom of Information Foundation, Russia
38. Fundar, Center for Research and Analysis, Mexico
39. GESOC, Mexico
40. Global Human Rights Communications, India
41. GodlyGlobal.org, Switzerland
42. GONG, Croatia
43. Hong Kong In-Media, Hong Kong
44. Hungarian Civil Liberties Union
45. Independent Journalism Center, Moldova
46. INESC, Brazil
47. Initiative für Netzfreiheit, Austria
48. Institute for Democracy 'Societas Civilis'-Skopje (IDSCS), Macedonia
49. Institute for Development of Freedom of Information, Georgia
50. Instituto Mexicano para la Competitividad A.C., Mexico
51. International Records Management Trust, UK
52. Integrity Action, UK
53. IT for Change, India
54. Iuridicum Remedium, Czech Republic
55. Media Rights Agenda, Nigeria
56. Mazdoor Kisan Shakti Sangathan (Association for the Empowerment of Workers and Peasants), India
57. NATO Watch, UK
58. Obong Denis Udo-Inyang Foundation, Nigeria
59. OneWorld – Platform for Southeast Europe (OWPSEE), Europe
60. openDemocracy.net, UK
61. Open Democracy Advice Centre, South Africa
62. Open Australia Foundation
63. Open Government Institute, Moldova
64. Open Ministry, Finland
65. Open the Government.org, USA
66. Open Knowledge Finland
67. Open Knowledge Foundation, UK
68. Open Knowledge Foundation Ireland
69. Open Rights Group, UK
70. Paradigm Initiative, Nigeria
71. Paraguayan Association of Information Technology Law, Paraguay
72. Philippines Internet Freedom Alliance
73. Privacy and Access Council of Canada – Conseil du Canada de l'Accès et la vie Privée
74. PRO Media, Macedonia
75. PROETICA PERU
76. Programa Estudiantil Juventud Siglo XXI, Mexico
77. Project on Government Oversight, USA
78. Public Concern at Work, UK
79. Public Virtue Institute, Indonesia
80. Publish What You Pay Indonesia
81. Request Initiative, UK
82. Sahkar Social Welfare Association, Pakistan
83. Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC), University of Ottawa
84. Shaaub for Democracy Culture Foundation, Iraq
85. Social Research and Development Center, Yemen
86. Soros Foundation Romania, Romania
87. Stati Generali dell'Innovazione, Italy
88. TEDIC, Paraguay
89. Transparencia por Colombia
90. Transparency International Armenia
91. Transparency International Bosnia and Herzegovina
92. Transparency International Indonesia
93. Transparency International Ireland
94. Transparency International Macedonia
95. Transparency International Mongolia
96. Transparency International Switzerland
97. Unwanted Witness, Uganda
98. Water Governance Institute (WGI), Uganda
99. Whistleblowers Network, Germany

100. Youth Advocate Program
International, Inc, USA

101. 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
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22. Matthew Landauer
23. Simon Ontoyin
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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
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52. Judyth Mermelstein
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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 Dumlau
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