



06/18/13

Congress of the United States  
Washington, DC 20515-4403

Members of US Congress:

We write as a coalition of civil society organizations from around the world to express our serious alarm regarding revelations of Internet and telephone communications surveillance of US and non-US citizens by the US government. We also wish to express our grave concern that US authorities may have made the data resulting from those surveillance activities available to other States, including the United Kingdom, the Netherlands, Canada, Belgium, Australia and New Zealand.<sup>1</sup> Many US-based Internet companies with global reach also seem to be participating in these practices.<sup>2</sup>

The introduction of surveillance mechanisms at the heart of global digital communications severely threatens human rights in the digital age. These new forms of decentralized power reflect fundamental shifts in the structure of information systems in modern societies.<sup>3</sup> Any step in this direction needs to be scrutinized through ample, deep and transparent debate. Interference with the human rights of citizens by any government, their own or foreign, is unacceptable. The situation of a citizen unable to communicate private thoughts without surveillance by a foreign state not only violates the rights to privacy and human dignity, but also threatens the fundamental rights to freedom of thought, opinion and expression, and association that are at the center of any democratic practice. Such actions are unacceptable and raise serious concerns about extra-territorial breaches of human rights. The inability of citizens to know if they are subject to foreign surveillance, to challenge such surveillance, or to seek remedies is even more alarming.<sup>4</sup>

The contradiction between the persistent affirmation of human rights online by the US government and the recent allegations of what appears to be mass surveillance of US and non-US citizens by that same government is very disturbing and carries negative repercussions on the global stage. A blatant and systematic disregard for the human rights articulated in Articles 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR), to which the United States is signatory, as well as Articles 12 and 19 of the Universal Declaration of Human Rights is suggested. Bearing in mind that the US must engage in a long overdue discussion about how to update and modernize its policy to align with its own founding documents and principles, what happens next in legislative and Executive Branch oversight in the US will have huge and irreversible consequences for the promotion and protection of the human rights of people around the world.

It is also notable that the United States government supported the United Nations Human Rights Council Resolution 20/8, which “[a]ffirms that the same rights that people have offline must also be

- 1 <http://www.ft.com/cms/s/0/d0873f38-d1c5-11e2-9336-00144feab7de.html>,  
<https://www.bof.nl/2013/06/11/bits-of-freedom-dutch-spoops-must-stop-use-of-prism/> and  
[http://www.standaard.be/cnt/DMF20130610\\_063](http://www.standaard.be/cnt/DMF20130610_063).
- 2 Including Microsoft, Yahoo, Google, Facebook, PalTalk, AOL, Skype, YouTube, and Apple:  
[http://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497\\_story.html](http://www.washingtonpost.com/investigations/us-intelligence-mining-data-from-nine-us-internet-companies-in-broad-secret-program/2013/06/06/3a0c0da8-cebf-11e2-8845-d970ccb04497_story.html).
- 3 <http://www.state.gov/statecraft/overview/>
- 4 (A/HRC/23/40)

protected online, in particular freedom of expression ...”<sup>5</sup> and, just a few days ago, on June 10, the US was part of a core group of countries that drafted a cross regional statement, which correctly emphasized “that when addressing any security concerns on the Internet, this must be done in a manner consistent with states’ obligations under international human rights law and full respect for human rights must be maintained.”<sup>6</sup> That was apparently not the case with the latest practices of the US Government. Besides representing a major violation of fundamental human rights of people worldwide, the incoherence between practices and public statements by the US also undermines the moral credibility of the country within the global community that fights for human rights, as they apply to the Internet and fatally impacts consumers’ trust in all American companies that provide worldwide services.

On 10 June, 2013 many signatories to this letter joined together to raise our concerns to the United Nations Human Rights Council.<sup>7</sup> We did so against the background of the recent report of the UN Special Rapporteur on the right to Freedom of Opinion and Expression, Mr. Frank La Rue.<sup>8</sup> This report detailed worrying trends in state surveillance of communications with serious implications for the exercise of the human rights to privacy and to freedom of opinion and expression. We note that US-based stakeholders have also written a letter to Congress to express their concerns about the compliance of the current national surveillance program with domestic law.<sup>9</sup>

We are also extremely disappointed that, in all the post ‘disclosures’ statements, US authorities have only insisted that there was no access obtained to content related to US citizens, and just their communication meta-data was collected. There has not been a word on the issue of large-scale access to content related to non US citizens, which constitute an almost certain human rights violation. The focusing of the US authorities on the difference between treatment of US citizens and non-citizens on an issue which essentially relates to violation of human rights is very problematic. Human rights are universal, and every government must refrain from violating them for all people, and not merely for its citizens. We strongly advocate that current and future legal provisions and practices take this fact into due consideration.

We therefore urge the Obama administration and the United States Congress to take immediate action to dismantle existing, and prevent the creation of future, global Internet and telecommunications based surveillance systems. We additionally urge the US Administration, the FBI and the Attorney General to allow involved or affected companies to publish statistics of past and future Foreign Intelligence Surveillance Act (FISA) requests they have received or may receive.<sup>10</sup> We further call on the US Congress to establish protections for government whistleblowers in order to better ensure that the public is adequately informed about abuses of power that violate the fundamental human rights of the citizens of all countries, US and other.<sup>11</sup> We also join Humans Rights Watch in urging the creation of an independent panel with subpoena power and all necessary security clearances to examine current practices and to make recommendations to ensure appropriate protections for the rights to privacy, free expression, and association. The results of this panel should be broadly published.

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5 [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/20/8](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/20/8)

6 <http://geneva.usmission.gov/2013/06/10/internet-freedom-5/>

7 <http://bestbits.net/prism-nsa>

8 (A/HRC/23/40)

9 Asking the U.S. government to allow Google to publish more national security request data  
<http://googleblog.blogspot.com/2013/06/asking-us-government-to-allow-google-to.html>

10 <https://www.stopwatching.us/>

11 The just-released Global Principles on National Security and Freedom of Information (the Tshwane Principles) which address the topic of Whistleblowing and National Security provide relevant guidance in this regard: <http://www.opensocietyfoundations.org/sites/default/files/Global%20Principles%20on%20National%20Security%20and%20the%20Right%20to%20Information%20%28Tshwane%20Principles%29%20-%20June%202013.pdf>.

Sincerely,

Organisations	Individuals
<p>Access, International  Alternatives, Canada  Asia Pacific Workers Solidarity Links Corea, Korea  Asociación Colombiana de Usuarios de Internet, Colombia  Association for Progressive Communications (APC), International  Bangladesh NGOs Network for Radio and Communication (BNNRC), Bangladesh  Barbados Association of Non Governmental Organisations, Barbados  Bytes for All, Pakistan  Center for Democracy &amp; Technology, United States  Centre For Internet And Society, Bangalore  Center for Technology and Society (CTS/FGV), Brazil  Centre for Communication Governance, National Law University, Delhi  Centre Africain d'Echange Culturel, Democratic Republic of the Congo  Christian Media Network, KOREA  Citizens' Action Network, South Korea  Citizens' Coalition for Economic Justice, South Korea  Civil Society Internet Governance Caucus, International  Consumers International, Global  datapanik.org, Belgium  Digital Empowerment Foundation, India  EELV, France  Electronic Frontier Foundation  European Digital Rights (EDRi), Belgium  Fundacion Karisma, Colombia  Global Partners Digital, International  Global Voices Advocacy, International  GreenNet, United Kingdom  ICT Watch, Indonesia  ICTEDU Learning Centre, Rwanda  IDEC - Brazilian Institute for Consumer Defense, Brazil  Instituto Nupef, Brazil  Internet Democracy Project, India  Internet Governance Forum of Pakistan  Internet Rights &amp; Principles Coalition (UN IGF)  Internet Society- Catalan Chapter, Catalonia (Spain)  IP Justice, USA  IT for Change, India  JONCTION, Senegal  Kenya ICT Action Network (KICTANet), Kenya  Korean Progressive Network 'Jinbonet', South Korea  London Metropolitan University, United Kingdom  Ligue des Droits de l'Homme et du Citoyen, France</p>	<p>Abbe Brown, United Kingdom  Adrien Antoine, France  Alexandra Groome, Canada  Albert Demichelis, France  Alex Comninos, USA &amp; South Africa  Alexandre Serres, France  Almathely Vivas Rosales, Venezuela  Amalia Toledo Hernández, Puerto Rico  Anne Ballié, France  Avri Doria, United States  Bala Dada,  Ben Doernberg, United States of America  Benoit Gennevieve, France  Bouveret Thérèse, France  ByungRok Lee, South Korea  Camille Muguet, France  Carina Conradie, South Africa  Carolina Rossini, Brazil  Charles Ogoubiyi, France  Chinmayi Arun, India  Chris Hargrove  Coralie Chevallier, France  Crystal Cameron-vedros,  David Ratel, France  Didzis Melkis, Latvia  Dominique Lacroix, France  Dorothea Salo, USA  Emmanuelle BOSLE, France  François Deneulin, France  François Doubelt, France  Gabriel Rivard,  Georges Pakatass, France  Gilles POIRIER, France  Greg Math  Guillaume Terrien, France  Hala Essalmawi, Egypt  Henri Halleux, Belgium  Houidek Lena, France  J. Carlos Lara, Chile  Jacinto Dávila, Venezuela  Jacques Lhomet, France  Jan Rehmann, USA and Germany  José F. Arias Ynche  Jean-Jacques Subrenat, France  Jean-Philippe Miginiac, France  Jessica Singh, USA  Jessica Tordeur  Jessie Jeong, South Korea</p>

<p>Media, Germany  Metamorphosis Foundation, Former Yugoslav Republic of Macedonia  Net Neutrality User Forum(South Korea), South Korea  New America Foundation's Open Technology Institute, USA  Newcastle Environmental Justice Alliance, South Africa  NURPA, Net Users' Rights Protection Association, Belgium  Office of Vision 2050, Papua New Guinea  ONG- TEDIC, Paraguay  OpenMedia.ca, Canada  Pasifika Nexus, Fiji, Solomon Islands, Vanuatu, New Zealand  Pakistan Telecommunication Authority, Pakistan  Paradigm Initiative Nigeria, Nigeria  Pasifika NEXUS, Fiji  Public Knowledge, United States  Right2Know Campaign, South Africa  SARANGBANG Group For Human Rights, South Africa  Simentor Ad &amp; Koi Sarlau, Morocco  Software Freedom Law Centre, India  Thai Netizen Network, Thailand  Torservers.net, Germany  Universite de Caen, Francophone  University of Aarhus, Denmark  University of Costa Rica, Costa Rica  Web Foundation, International</p>	<p>Joao Barrote, portugal  John Wilbanks, USA  Jonathan Charnas, United States  Josef Imberger, Austria  Josie Abrahams, South Africa  Katherine Hoelscher, USA  Kathi L'Belle, USA  Ken Homer, USA  Kil-Young Oh, South Korea  Kim sejoon, South Korea  Kirsten Fiedler, Belgium  Klibi Salsabil, Tunisia  Lariau Vincent  Laura Pollecutt, South Africa  Lbaz Tarik, France  Lisa Siegfried, United States  Louis Delmas, France  Marília Maciel, Brazil  Marie Georges, France  Mawaki Chango, Cote d'Ivoire  Michel Léonard, Switzerland  Michel Volle, France  Mohamed Aluartassi, Morocco  Monica vilasau, spain  Muhammad Zafarullah,  Mun Hyejung, Korea  Nica Dumlao, Philippines  Nicolas Meuret, France  Nicolas Durand, France  Nicole Caraoue, United Kingdom  Norbert Bollow, Switzerland  Norbert Klein, Cambodia  Patrick Allard, France  Patrick Gicquel, France  paul petet, france  Paulo Santarém, Brazil  Penny Groome, Canada  Philippe Marseille, France  Pierre Berger, France  Pierre Desbarats, France  Pyungho Kim, Republic of Korea  Rafik Dammak, Tunisia  Redona Kajmaku, Albania  Renata Avila Pinto, Guatemala  Rick Groome, Canada  Rwagasana Gerard, Rwanda  Salanieta Tamanikawaimaro, Fiji  Samvel Martirosyan, Armenia  Sangkoo Park, Republic of Korea  Sara Annon, USA  Siranush Vardanyan, Armenia  Stephanie Rosenberg  TH Schee, Taiwan</p>
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	Thierry Gaudin, France Thomas Lowenhaupt, United States Thomas Rebotier, United States Tijani Ben Jemaa, Tunisia Uta Meier-Hahn, Germany Vanessa Burger, South Africa Waddah Saab, France Wolf Ludwig, Switzerland Zouheir Benouhoud, Morocco
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