

Joint submission to the Global Digital Compact on targeted surveillance

i) Core principles that all governments, companies, civil society organisations and other stakeholders should adhere to; and

ii) Key commitments, pledges, or actions that in your view should be taken by different stakeholders – governments, private sector, civil society, etc.

i) Core Principles

Civil society, researchers, activists, and journalists have revealed in multiple instances how states' use of unlawful surveillance tools [violates human rights](#), including among others the right to privacy, the rights to freedom of assembly and association, and the right to freedom of expression. Furthermore, the private surveillance industry has been facilitating those abuses and has been allowed to [operate in the shadows](#) unchecked. Hence, states have failed in their obligations to respect as well as to protect people from these human rights abuses.

Where surveillance is operated without adequate legal frameworks, transparency, oversight, and effective safeguards, its harms have an [impact far beyond](#) those who may have actually been targeted. In the face of opacity and inadequate safeguards, human rights defenders and journalists are forced to self-censor for fear of being persecuted for their work, even if they may not be the target of such surveillance. This can be referred to as a 'chilling effect' - where people refrain from exercising their rights out of fear they could be subject to unlawful surveillance. The differentiated and intersectional impacts of unlawful surveillance on vulnerable or marginalised communities, including women and LGBT groups, is particularly egregious.

Too often, states abuse the concepts of national security or combating serious crime as a pretext for the widespread targeting of HRDs. As the UN Special Rapporteur on Counter-Terrorism has [noted](#): “In recent years, the widespread misuse of surveillance technology purportedly in service of counter-terrorism and national security objectives, with concerning disregard for fundamental human rights protections, has been exposed in dramatic fashion.” The PEGA Committee of the European Parliament, in their [draft report](#), similarly lamented that “Member State authorities have referred to ‘national security’ as justification for the use of spyware and for absolute secrecy and lack of accountability.”

A culture of impunity specific to targeted digital surveillance has developed that must be urgently countered. Our rights and the security of the digital ecosystem as a whole depend on it.

b) Key Commitment/ Pledges/ Actions

We urge all states to urgently take the following steps:

1. Immediately put in place a moratorium on the sale, transfer, export, servicing and use of spyware technology until such time as an adequate system of human rights safeguards is in place. This call has been backed by seven former and current UN Special Rapporteurs¹ and the UN High Commissioner for Human Rights².
2. Adopt and enforce a legal framework requiring private surveillance companies and their investors to conduct human rights due diligence in their global operations, supply chains and in relation to the end use of their products and services.
3. Adopt and enforce a legal framework requiring transparency in acquisition and use of surveillance technologies by both public actors and private surveillance companies.

¹ David Kaye, Special Rapporteur on freedom of opinion and expression 2014-2020:

<https://www.ohchr.org/en/press-releases/2019/06/un-expert-calls-immediate-moratorium-sale-transfer-and-use-surveillance>

Fernand de Varennes, Special Rapporteur on minority issues; Irene Kahn, Special Rapporteur on freedom of opinion and expression: <https://www.ohchr.org/en/press-releases/2023/02/spain-un-experts-demand-investigation-alleged-spying-programme-targeting>

Mary Lawlor, Special Rapporteur on the situation of human rights defenders; Clement Nyaletsossi Voulé, Special Rapporteur on the rights to freedom of peaceful assembly and of association: <https://www.ohchr.org/en/press-releases/2021/08/spyware-scandal-un-experts-call-moratorium-sale-life-threatening>

E. Tendayi Achiume, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance 2017-2022: <https://www.ohchr.org/en/press-releases/2021/10/special-rapporteur-contemporary-forms-racism-calls-moratorium-use>

Fionnuala Ní Aoláin, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism:

<https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/2022-12-15/position-paper-unsrct-on-global-regulation-ct-spyware-technology-trade.pdf>

² Michelle Bachelet, UN High Commissioner for Human Rights 2018-2022:

<https://www.ohchr.org/en/statements/2021/09/committee-legal-affairs-and-human-rights-parliamentary-assembly-council-europe?LangID=E&NewsID=27455>;

2022 Report of the Office of the United Nations High Commissioner for Human Rights, *The right to privacy in the digital age*: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/442/29/PDF/G2244229.pdf?OpenElement>

- Article 19
- Association for Progressive Communications (APC)
- Asociatia pentru Tehnologie si Internet - ApTI (Romania)
- Bahrain Institute for Rights and Democracy (BIRD)
- Bits of Freedom
- Business & Human Rights Resource Centre
- Center for Democracy & Technology
- CIVICUS
- Comisión Mexicana de Defensa y Promoción de los Derechos Humanos
- Committee to Protect Journalists (CPJ)
- comun.al, Digital Resilience Lab (Mexico)
- CyberPeace Institute
- Digital Empowerment Foundation
- Digital Rights Foundation
- Digitale Gesellschaft Schweiz (Digital Society Switzerland)
- Državljan D / Citizen D
- European Center for Not-for-Profit Law (ECNL)
- FMA - Foundation for Media Alternatives (Philippines)
- Free Expression Myanmar (FEM)
- Front Line Defenders
- Fundacja Panoptikon (Panoptikon Foundation)
- Global Network of People Living with HIV
- Global Voices Advox
- Heartland Initiative
- Hiperderecho
- HRDC "Memorial"
- Human Rights House Foundation
- iLaw (Thailand)
- InternetBolivia.org Foundation
- Internet Freedom Foundation
- Media Foundation West Africa (MFWA)
- Nothing2Hide (N2H)
- OpenArchive
- OVD-Info
- Pollicy (Uganda)
- Privacy International
- Ranking Digital Rights
- Red en Defensa de los Derechos Digitales (R3D)
- Reporters Without Borders (RSF)
- Robert F. Kennedy Human Rights
- Roskomsvoboda
- SocialTIC
- Statewatch
- SUPERRR Lab
- Sursiendo, Comunicación y Cultura Digital

- Surveillance Technology Oversight Project (S.T.O.P.)
- TEDIC
- the Egyptian Initiative for Personal Rights (EIPR)
- Women of Uganda Network (WOUGNET)
- Xnet
- Tamleh - The Arab Center for the Advancement of Social Media