

President Barack Obama

The White House
Washington, DC
United States

CC:

Attorney General Eric Holder
Secretary of State John Kerry

August 2013

Dear President Obama,

We are writing to you as free speech and media freedom organisations from around the world to express our strong concern over the response of the US government to the actions of whistleblower Edward Snowden. We urge you to take immediate action to protect whistleblowers and journalists.

Edward Snowden's recent disclosures have triggered a necessary and long-delayed public debate about the acceptable boundaries of surveillance in a democratic country, a debate that on 5 June you welcomed having. The revelations brought into question the legitimacy of the secretive process of the Foreign Intelligence Surveillance Court and closed Congressional intelligence committees as appropriate forums to determine the fundamental human rights of Americans and persons worldwide. The disclosures have clearly served the public interest, including by prompting similar debates in countries around the world.

We are, therefore, dismayed that criminal charges have been filed against Snowden, including those under the vague and overbroad Espionage Act of 1917. Statements by the State Department that Snowden is not a whistleblower simply because of the nature of the charges against him flatly contradict international standards on freedom of expression and information. Attempts to obstruct Snowden's freedom of movement, his right to seek asylum, including the revocation of his passport, and other forms of retaliation also violate US obligations under international law.

Moreover, we are concerned that the charges against Snowden are not an isolated incident, and that there have been an unprecedented number of prosecutions against whistleblowers during your administration, as well as intrusive investigations to identify the sources of journalists reporting on matters that are in the public interest. This tendency of the US government towards obsessively controlling information flows and an aversion to public discourse is both undemocratic and unsustainable in the digital era.

Taken together, we find that these actions have set a dangerous precedent for the protection of whistleblowers and journalists worldwide. As you are aware, whistleblowers often face criminal charges when they reveal information that causes acute embarrassment to governments, to

distract from the wrongdoing revealed. Similarly, journalists are also attacked for publishing the disclosed information. We are seriously concerned that governments will rely on the US example to justify attacks on whistleblowers and journalists who put themselves at significant risk to expose or report government wrongdoing, corruption, or other dangers to society.

The US has a long history of recognising the important role whistleblowers play in democracy, going back to Abraham Lincoln's 1863 Law, the False Claims Act. While the Whistleblower Protection Enhancement Act of 2012 built upon these protections, they specifically exclude protections for public interest disclosures of national security or intelligence information. While the recent Presidential Policy Directive/PPD-19 on "Protecting Whistleblowers with Access to Classified Information" and Attorney General Eric Holder's guidance on protecting reporters' privilege are both positive, as policy they are not binding law and provide no legal protection or remedy for whistleblowers or journalists seeking to defend information disclosures. Greater legal protections in this area are therefore needed.

We call on your administration to take the following actions:

- Drop the charges with prejudice against Edward Snowden
- Immediately reinstate Edward Snowden's passport and cease attempts to obstruct his right to seek asylum in any country of his choice
- Initiate an executive public consultation on the activities of the National Security Agency
- Instruct the Justice Department to declassify and make public all orders issued under the Foreign Intelligence Surveillance Act, upon their completion
- Commit to seeking the adoption through Congress of an extension of the Whistleblower Protection Enhancement Act and the reform of the Espionage Act to ensure there are appropriate and legally binding protections for whistleblowers disclosing national security and intelligence information
- Continue to support the adoption by Congress of a strong and robust "media shield law" with narrow exemptions for national security information.

Yours sincerely,

ARTICLE 19 - UK

South African PEN Centre - South Africa

National Union of Somali Journalists (NUSOJ) - Somalia

Media Rights Agenda - Nigeria

Human Rights Network for Journalists - Uganda

Tanzania Human Rights Defenders' Coalition - Tanzania

Panos Eastern Africa - East Africa

Press Union and Audiovisual of Djibouti (SPAD) - Djibouti

Media Institute of Southern Africa - South Africa

Africa FOI Centre - Uganda

West African Journalists Association - West Africa

New Zealand PEN Centre - New Zealand

PEN Melbourne - Australia
Media, Entertainment & Arts Alliance - Australia
Pakistan Press Foundation - Pakistan
Media Defence - Southeast Asia (MDSEA) - Asia
Bolo Bhi - Pakistan
Cambodian Center for Human Rights (CCHR) - Cambodia
Samoa Observer - Samoa
Centre for Independent Journalism - Malaysia
Ain-O-Shalish Kendra - Bangladesh
COAST - Bangladesh
Equity BD - Bangladesh
ChangeMaker - Bangladesh
Centre for Participatory Research and Development - Bangladesh
Asian Forum for Human Rights and Development (FORUM-ASIA) - Asia
Centre for Internet and Society - India
Bytes for All - Pakistan
Globe International Center - Mongolia
Afghanistan Journalists Center - Afghanistan
Institute for the Studies on Free Flow of Information - Indonesia
Aliansi Jurnalis Independen - Indonesia
Hong Kong Journalists Association - Hong Kong
Pro Media - Macedonia
The Institute for Reporters' Freedom and Safety - Azerbaijan
Kazakhstan International Bureau for Human Rights and Rule of Law - Kazakhstan
Foundation for Regional Initiatives - Ukraine
Human Rights Club - Azerbaijan
Center for National and International Studies - Azerbaijan
Helsinki Citizens' Assembly – Vanadzor - Armenia
Index on Censorship - UK
Human Rights Monitoring Institute - Lithuania
Reporters Without Borders - France
Helsinki committee of Armenia - Armenia
International Youth Human Rights Movement - Russia
Albanian Helsinki Committee - Albania
IPHR - International Partnership for Human Rights - Belgium
Center for the Development of Democracy and Human Rights - Russia
People in Need - Czech Republic
Human Rights Center of Azerbaijan - Azerbaijan
Helsinki Foundation for Human Rights - Poland
Notabene -Tajikistan
KRF Public Alternative - Ukraine
Moscow Helsinki Group - Russia
Association of Human Rights Monitors on Law Enforcement - Ukraine
PEN International's Swiss Romand Center - Switzerland

German PEN Centre - Germany
Scottish PEN - UK
Catalan PEN - Spain
Finnish PEN - Finland
Russian PEN - Russia
ActiveWatch - Romania
English PEN - UK
Portuguese PEN Centre - Portugal
Independent Journalism Center - Moldova
Vrijsschrift - Netherlands
Initiative for Freedom of Expression - Turkey
PEN Turkey Centre - Turkey
South East European Network for Professionalization of Media - Europe
Norwegian PEN - Norway
Institute for Contemporary Social and Political Studies - Slovenia
Public Association "Journalists" - Kyrgyzstan
Albanian Media Institute - Albania
Institute of Mass Information - Ukraine
Digitalcourage e.V. - Germany
Open Rights Group - UK
IT-Politisk Forening - Denmark
La Quadrature du Net - France
Alternative Informatics Association - Turkey
Bulgarian Helsinki Committee - Bulgaria
Center for Development and Democratization of Institutions - Albania
Balkan Investigative Reporting Network - Kosovo
Electronic Frontier Finland - Finland
Computer professionals for peace and social responsibility (FIF) - Germany
Föreningen för Digitala Fri- och Rättigheter - Sweden
Panoptykon Foundation - Poland
Cartoonists Rights Network International - International
Association for Progressive Communications - International
World Association of Community Radio Broadcasters (AMARC) - International
PEN International - International
Privacy International - International
San Miguel PEN Center - Mexico
Asociacion por los Derechos Civiles - Argentina
Centro de Archivos y Acceso a la Información Pública - Uruguay
Derechos Digitales - Chile
Foro de Periodismo Argentino - Argentina
Grupo Medios y Sociedad (GMS) - Uruguay
Centro de Cultura Luiz Freire - Brazil
Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo (PIDHDD) - Ecuador

Centro Internacional de Estudios Superiores de Comunicación para América Latina (CIESPAL)
- Ecuador
Centro de Reportes Informativos sobre Guatemala (CERIGUA) - Guatemala
Fundación para la Libertad de Prensa (Foundation for Press Freedom) - Colombia
Centro Nacional de Comunicación Social - Mexico
PEN Palestine - Palestine
Civil Coalition for the Defence of Freedom of Expression - Tunisia
National Union of Tunisian Journalists SNJT - Tunisia
Tunis Centre for Freedom of the Press - Tunisia
Tunisian Union of Free Radios STRL - Tunisia
Association "Yakadha" for democracy and Civil State - Tunisia
Union of Independent Newspapers - Tunisia
Tunisian Engineers Council - Tunisia
Tunisian Association of Women Lawyer - Tunisia
ACCUN - Tunisian Digital Culture - Tunisia
ATL MST/SIDA - Tunisia
Association for Freedom of Thought and Expression - Egypt
Bahrain Center for Human Rights - Bahrain
MADA Center - Palestine
Freedom of the Press Foundation - USA
PEN Center USA - USA
PEN Canada - Canada
Electronic Frontiers Foundation (EFF) - USA
Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC) - Canada
Government Accountability Project (GAP) - USA
Canadian Journalists for Free Expression - Canada
Centre for Law and Democracy - Canada