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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Citizens' Coalition for Economic Justice, People's Solidarity for Participatory Democracy, non-governmental organizations in special consultative status*

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2013]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Joint Statement by NGOs in the Republic of Korea on Intelligence Agencies' Internet Surveillance: Electronic Surveillance of Internet Users Worldwide Should Be Stopped

There was a shocking revelation that the United States(US) National Security Agency(NSA) has conducted surveillance of global Internet users by using PRISM, a clandestine mass electronic surveillance data mining program, and large online service providers have complied with the Agency's request. It has been reported that intelligence agencies in a number of countries have not only collected data from online providers, including e-mail, Internet phone, chat and social networking services, but have also exchanged those data each other¹.

In order to improve society toward democracy and human rights, NGOs in the Republic of Korea have fought against national surveillance systems such as "criminalization of false communications" or "the Internet real-name registration system," and to secure the freedom of anonymous speech and the right to privacy over the Internet². We are deeply concerned by the fact that the US government has ignored the human rights of internet users because they are non-US citizens, and the surveillance of overseas users has been conducted in the name of national security, as we can see from the US government's explanations³ on this issue. We also suggest the citizens of the global community to act in solidarity on this issue taking into account of following reasons.

National security agencies in many countries have been broadly authorized to watch foreign people as well as domestic people in the name of the national security and the prevention of terrorism. Additionally, the development of information and communication technologies, such as the Internet has enabled those agencies to carry out global surveillance in real time much easier than ever before. It is also truly astonishing, in particular, that the US global online provider like Microsoft, Google, Yahoo!, Facebook, Paltalk, YouTube, Skype, AOL and Apple have handed over massive amount of information about foreign users in responding to the request of NSA without any prior consent or post-notification on the provision of personal information and communications, or without any appropriate legal procedures for protecting users' privacy or freedom of speech. Non-US citizens' privacy has been infringed simply because they have used the services which are provided by the US based global enterprises in the Internet and in mobile communications area. It means that those internet users worldwide are forced to be out of the due process, which has been secured by the modern constitutional principle that a warrant is required to perform a lawful search and seizure. Obviously, the global surveillance violates the freedom of speech and the right to privacy as enshrined in Article 12 and Article 19 of the Universal Declaration of Human Rights and also in Article 17 and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) of which the US is one of signatories. It should not be ignored that global Internet users, even when they use those services provided by the US-based or the US enterprises, should be legitimately ensured that the communications secrets, the freedom of speech and the right to privacy are to be protected.

Even when some online service providers happen to access to users' data in the process of providing services, it is very obvious that the data belongs exclusively to such users; neither to the country where the service provider is located or nor to those providers themselves. To provide personal information, or communications to the third party without any prior consent or any prior notification to users and the fact that such a behavior has long maintained, shows that those enterprises have infringed the user's rights. Nevertheless, it is hard for users to know whether and how their personal

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-spooks-must-stop-use-of-prism/> and http://www.standaard.be/cnt/DMF20130610_063.

² "Mission to the Republic of Korea : Addendum of the Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression". A/HRC/17/27/Add.2. Frank La Rue. 21 March 2011.

³ Ovide, Shira (June 8, 2013). "U.S. Official Releases Details of Prism Program". The Wall Street Journal. Retrieved 15 June 2013.

information would have been handed over and their communications would have been eavesdropped and how it would be even in future. Furthermore, even if they could know, it is also much more difficult for them to redress the infringement. If these conditions are to be maintained, the civic liberty of people who necessarily need to use the Internet in their daily lives regardless of whether they are US citizens or not would be severely threatened. If this issue would be left alone, and any further framework for the improvement of the Internet users' human rights is not to be set, intelligence agencies in many countries may introduce another electronic surveillance data mining program such as PRISM more competitively and then it would exacerbate the reality of human rights over the Internet.

Disappointingly, however, these countries including the US directly or indirectly involved with PRISM do not show any serious attempt to sort out these problems. They have only asserted that such an monitoring behavior could be legitimized and used to be authorized under laws concerned since its surveillance target is not their own national people. Moreover, the fact that Snowden, the whistleblower who has exposed the surveillance reality are wandering without any appropriate protection is itself making serious chilling effect on those global citizens who have a solid confidence on the value of human rights and have pursued justice by accusing the truth of human rights infringement over the world.

Therefore, We also request the UN Human Rights Council to take following actions together with other global civil society's demands for this issue, which we support and are in solidarity with⁴.

1. Hold a special session to investigate illegal surveillance on the Internet users.
2. Develop recommendations on how effectively restrict or prevent today's intelligence agency's or global online service providers surveillance behavior in a way to further promote and protect human rights of internet users.

Furthermore, we request the US government to carry out following actions.

1. Decide to immediately suspend the electronic surveillance data mining program which was recently revealed to comprehensively monitor global internet users
2. Establish a legal basis to inform those users who have been the targets of surveillance and what communication has been monitored under the FISA framework, and transparently disclose the full statistics concerned.
3. Stop suppressing the whistleblowers and giving international pressure on other countries not to help them. Protect Snowden as a whistleblower.

We also request global online service providers which have been known to cooperate with the NSA for this surveillance to take following actions.

1. Inform those users who have been the targets of surveillance under the Foreign Intelligence Surveillance Act (FISA), and transparently disclose the full statistics concerned.
2. Add appropriate users' protection provisions to terms and conditions

Lastly, we urge the government and the National Assembly of the Republic of Korea to take relevant measures as follows.

1. Identify whether or not and how South Korean have become victims of the recent controversial electronic communication surveillance by other states' intelligence agencies.
2. Examine the domestic laws concerned with Internet surveillance including the Protection of Communications Secrets Act. In particular, disclose the reality of how and when foreign Internet users are monitored without court's warrant, and improve the human right protection regarding surveillance process.
3. Make global efforts to introduce appropriate policy measures to restrict or prevent global Internet surveillance behavior in accordance with the international human rights standards.
4. Cooperate with international humanitarian actions for protecting Snowden as a whistleblower.

⁴ "Civil Society Statement to the Human Rights Council on the impact of State Surveillance on Human Rights addressing the PRISM/NSA case". <http://bestbits.net/prism-nsa/>

Dasan Human Rights Center, Consumers Korea, Civil Society Organizations Network in Korea, Korean House for International Solidarity, Human Rights Education 'Deul', Korean Progressive Network 'jinbonet', Buddhist Solidarity for Reform, Catholic human rights committee, Women Making Peace, National Council of YMCAs of KOREA, Korea Alliance For Progressive Movement, Citizen's Action Network, NGOs without consultative status, also share the views expressed in this statement.