

Expert Panel and Global Discussion on

Civic Space, Surveillance, and COVID-19: The Role of Civil Society in Preserving and Enhancing Privacy

On July 28, 2021, ICNL hosted an online discussion for civil society organization (CSO) representatives from around the world to explore the scope of surveillance overreach and share best practices on advancing the right to privacy during the COVID-19 pandemic and beyond. Through expert presentations and an interactive discussion in five languages, CSO representatives from 43 countries:

CONSIDERED THE IMPACT OF SURVEILLANCE ON CIVIC SPACE AND PRIVACY RIGHTS DURING THE PANDEMIC, specifically how governments in many countries have used public health measures to aggressively expand governmental power and implement surveillance techniques that violate the right to privacy, including the misuse of contact tracing applications, facial recognition technology, drone surveillance, and data collection.

EXCHANGED STRATEGIES AND LESSONS LEARNED FOR CSOS TO ADVOCATE FOR EFFECTIVE PUBLIC HEALTH MEASURES THAT ALIGN WITH INTERNATIONAL HUMAN RIGHTS LAW, including coalition building, public awareness campaigns, private sector engagement, advocacy at the United Nations, and more.

Remarks were delivered by **Zach Lampell**, ICNL Senior Legal Advisor and head of ICNL's digital programming; **Apar Gupta**, Executive Director of the Internet Freedom Foundation; and **Mohamad Najem**, Executive Director of Social Media Exchange (SMEX). ICNL facilitated a question-and-answer session for participants who speak Arabic, Russian, Spanish, French, and English to further explore the interaction of civic space, surveillance, and COVID-19 in their countries.

Trends in Civic Space, Surveillance, and the COVID-19 Pandemic

The 43 countries represented by participants in the online discussion were drawn from throughout Africa, Asia, Latin America, the Caribbean, the Middle East, and North America. In some of the participating countries, intrusive government surveillance was routine before the pandemic, while in other countries the authorities are perceived as generally committed to privacy rights. Governments in both settings, however, have used the COVID-19 crisis to put in place surveillance measures which risk violating the right to privacy and global data protection norms. Several common challenges related to surveillance and civic space emerged, as well as promising examples of CSOs mobilizing to address rights violations. Each of the observations reflected below was shared by an expert panelist or discussion participant.

SURVEILLANCE OVERREACH

A central concern was about the escalating use of new surveillance technology to monitor and collect data on individuals and organizations. In **SINGAPORE**, for example, police have used “Trace Together,” a contact tracing application, to track the location and associations of individuals under investigation. **CAMEROONIAN** officials have used contact tracing technology to monitor the activities of political opponents and CSOs. In **RUSSIA**, more than 100,000 closed-circuit television cameras employ facial recognition technology to enforce quarantine orders in Moscow. Twenty-two countries, including **AUSTRALIA**, **GREECE**, **INDIA**, and **SAUDI ARABIA**, now use drone surveillance to enforce quarantines and other COVID-19 measures.

In the **UNITED ARAB EMIRATES**, individuals are subject to mandatory checks at shopping malls which use their personal identification document to access medical history and COVID-19 status. In **INDIA**, municipal governments and housing associations have breached the right to privacy by publishing lists of people who had allegedly displayed COVID-19 symptoms.

Since **MYANMAR'S** February 2021 coup, the governing junta has required telecommunications firms to provide broad data access. Fears among CSOs and activists about data security have risen sharply due to the recent sale of the Myanmar subsidiary of Telenor, a telecom company, to an investment group perceived to be close with authoritarian governments.

INADEQUATE LEGAL FRAMEWORK ON DATA PROTECTION AND PRIVACY

In **INDIA**, a draft data privacy law is under consideration but contains broad exemptions for state authorities. **MALAYSIA'S** data protection law similarly insulates the government from its requirements. Analysis by SMEX found that though data

protection and privacy rules exist in **BAHRAIN**, **THE UAE**, and **QATAR**, they are minimal. **KUWAIT** does not have data protection or privacy laws.¹

The lack of an adequate privacy law framework in many countries has inhibited civil society's power to fight for reform. A key concern among CSOs is that expansive government surveillance programs adopted during the pandemic will be normalized and continue even after current crisis ends.

Strategies to Push Back on Intrusive Surveillance

The expert panel and group discussion highlighted strategies CSOs have used to raise awareness of surveillance abuses and seek accountability and reform. An expert panelist or group discussion participant shared each of the strategies below.

COALITIONS TO SHARE KNOWLEDGE AND CHANNEL PUBLIC PRESSURE

In **INDIA**, the Internet Freedom Foundation and other CSOs collaborated with Jan Swasthya Abhiyan (People's Healthcare Movement of India) to plan advocacy on pandemic-related surveillance overreach. A resulting campaign was strengthened by key public health expertise provided by Jan Swasthya Abhiyan, underlining the value of collaboration and knowledge sharing among a diverse group of CSOs.

PUBLIC AWARENESS RAISING AND CIVIC ENGAGEMENT

CSOs reported that strategic litigation and legal reform efforts were hindered by the closure of courts and legislative bodies during the pandemic. As a result, several CSOs made public awareness campaigns central to their advocacy. In **INDIA**, for example, CSOs disseminated educational materials explaining in basic terms privacy concerns raised by contact tracing. The Internet Freedom Foundation uses its [Instagram account](#) to educate the public on surveillance and privacy rights. Public awareness campaigns have also been used widely by CSOs across the Middle East.

ENGAGING THE PRIVATE SECTOR

Civil society across regions engaged with the private sector to push for better privacy practices. In **PALESTINE**, an informal coalition of CSOs from the MENA region held discussions with Facebook, Twitter, and Instagram to press for transparency and halt improper content removal. **INDIAN** CSOs enlisted the support of local tech entrepreneurs in advocacy campaigns emphasizing the economic costs of repressive measures. While CSO engagement with private sector entities was reportedly not effective in every case, it will remain important due to the influence of technology companies on privacy issues.

¹ A related issue, public information laws that insulate governments from data disclosure and access to information requests, was examined at ICNL's first global thematic discussion on civic space, corruption, and COVID-19. An event summary is available here: <https://www.icnl.org/post/event/civic-space-corruption-and-covid-19>.

WORKING WITH THE PUBLIC SECTOR

In **LEBANON**, digital rights CSOs reviewed the government's use of technology to address the pandemic and provided detailed feedback to the Ministry of Health. The Ministry of the Economy, which oversees data protection, lacks resources to carry out this function due to Lebanon's economic crisis. CSOs therefore plan to engage with and supplement its work on this issue. **INDIAN** CSOs are conducting advocacy with the government on its draft data privacy law and seeking to ensure India's data protection agency will be independent and effective.

GLOBAL SUPPORT

In **INDIA**, CSO critiques of surveillance overreach were bolstered by a joint submission by three UN Special Rapporteurs reviewing a new regulation on internet governance, intermediaries, and digital ethics. CSO partners emphasized that external pressure through the UN special procedures system and Universal Periodic Review, among other international mechanisms, remains an essential tool leveraged by civil society to push for internal reform, especially in societies which lack domestic privacy laws.

Next Steps

Participants at the virtual discussion underscored that a robust and effective response to COVID-19 is not mutually exclusive with respect for international human rights standards. CSO leadership on these issues will be crucial to better align national and global surveillance practices with the right to privacy. ICNL welcomes comments from our global partners on the lessons learned presented here, which we will use to inform future knowledge sharing to enable civil society to address surveillance in the context of COVID-19 and beyond.