

Wikimedia Foundation v. NSA
No. 15-cv-0062-TSE (D. Md.)

Plaintiff's Exhibit 32

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Opposing Mass Surveillance on the Internet

By Yana Welinder

May 9th, 2014

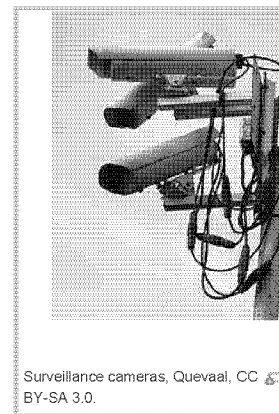
Surveillance cameras, Quevaal, CC BY-SA 3.0. We are pleased to announce that the Wikimedia Foundation is signing the Necessary and Proportionate Principles on the application of human rights to surveillance. Privacy on the Internet is closely connected to our mission to disseminate free knowledge.[1] We strive to provide a platform for users from all over the world to exercise their free expression right to share and study educational content. There are circumstances when contributors need to remain anonymous when working on the Wikimedia projects. To that end, the projects allow people to edit under a pseudonym, without providing any personal

We are pleased to announce that the Wikimedia Foundation is signing the Necessary and Proportionate Principles on the application of human rights to surveillance.

Privacy on the Internet is closely connected to our mission to disseminate free knowledge.^[1] We strive to provide a platform for users from all over the world to exercise their free expression right to share and study educational content. There are circumstances when contributors need to remain anonymous when working on the Wikimedia projects. To that end, the projects allow people to edit under a pseudonym, without providing any personal information, and without even creating an account. We want community members to feel comfortable when working on the projects. And we strongly oppose mass surveillance by any government or entity.

Although the recent conversation about internet surveillance was spurred by the revelation of a US government program, PRISM, a report issued by the United Nations Special Rapporteur on the Freedom of Opinion and Expression makes it clear that surveillance by governments is global, ubiquitous, and generally unchecked. The Necessary and Proportionate Principles are intended to provide a framework for human rights laws to address modern surveillance technologies.^[2] They demand that governments respect international law and human rights by complying with basic principles such as:

- **Proportionality:** Surveillance of communications is highly intrusive and implicates privacy rights and freedom of expression. This should be carefully weighed against any benefit sought to be achieved.
- **User Notification:** Individuals need to know if they will be the subject of surveillance and have enough time and information to appeal the decision.
- **Transparency:** Countries must be transparent about the extent of surveillance and the techniques employed.



Surveillance cameras, Quevaal, CC BY-SA 3.0.

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• **Integrity of Communications and Systems:** Governments should not compel ISPs or hardware and software vendors to build monitoring capability into their systems.

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OLDER POSTS

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The Necessary and Proportionate Principles project was led by several groups, including the Electronic Frontier Foundation, Access, and Privacy International. The principles were developed through a consultation with civil society groups and international experts in communications surveillance law, policy, and technology. So far, the Principles have been advocated by over 400 organizations and many individuals. The signatories include Wikimedia Mexico and several Wikimedians. Today, we are proud to join their efforts.

Yana Welinder

Legal Counsel, Wikimedia Foundation^[9]

WORK AT WIKIMEDIA

Work with the foundation that supports W and its sister projects around the world. A and join us

1. † As we previously discussed, the Foundation believes that government surveillance can compromise our values of freedom of speech and access to information.
2. † For more information about the purpose of the Principles, see here.
3. † Special thanks to Roshni Patel, WMF Privacy Fellow, for her work on this blog post.

5 Comments on Opposing Mass Surveillance on the Internet

Global Ceo 3 years

The people are massively supporting the uncensored internet and the founder of internet agrees with them. <http://globalceo.com/tim-berners-lee-web-should-be-basis-of-democracy/>

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Fae 4 years

Sorry, the links embedded in my last post do not seem to have been included. These were:

1. An email "Use of this list as evidence of consultation" to the Advocacy Advisors list http://lists.wikimedia.org/pipermail/advocacy_advisors/2014-May/thread.html
2. The discussion in 2013 by Wikimedia UK volunteers at https://wikimedia.org.uk/wiki/Water_cooler/2013#International_Principles_on_the_Application_of_Human_Rights_to_Communications_Surveillance

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Fae 4 years

Hi Roshni, thanks for your prompt response.

I was not aware of the Advocacy Advisors email list, members of that list are neither elected nor are Wikimedia groups such as Wikimedia LGBT asked to provide representation on the list. It is not evidence of community consultation. I have today joined the list and raised this question of scope at .

Your personal reading of the document does not agree with mine, or many other Wikimedians, the discussion in 2013 by Wikimedia UK volunteers at may be a helpful reference.

The list under "Legitimate Aim" uses wording that cannot be assumed to be defined by the preamble. Further, it is clear that in any country where LGBT activities were unlawful, any legally recognized organization would have no obligation to respect the private lives of LGBT minorities. The document appears to deliberately circumvent this issue by its careful choice of wording. As a relatively short set of principles, where other minority groups have been specifically listed for protection, yet LGBT or sexual orientation remains invisible, can only be a political convenience so that the principles do not break the law in countries where homosexuality is unlawful.

I am deeply disappointed that the community was not widely consulted so that this problem could not be properly discussed, before committing the Foundation to this flawed document.

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Roshni Patel 4 years

Hi Fae,

Prior to signing on to the Necessary and Proportionate Principles, we consulted the advocacy advisors. You can find that here.

The list of prohibited discriminations under the "Legitimate Aim" principle is non-exclusive and includes "other status." Given that sexual orientation was listed in the preamble, it would certainly be included under "other status".

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Fae 4 years

The document will be offensive to many, as LGBT minorities have been explicitly excluded from the "Legitimate Aim" section, despite "sexual orientation" being mentioned in the unenforceable preamble. As a consequence this policy supports any Government who wish to track LGBT minorities for any reason. In the light of countries recently attempting to make having a profile on Grindr a crime for its citizens, this is not a theoretical scenario.

Could someone please provide some links to the necessary community consultation in advance of this political action of the WMF?

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Comments are closed.

WIKIMEDIA FOUNDATION

The Wikimedia Foundation, Inc is a nonprofit charitable organization dedicated to encouraging the growth, development and distribution of free, multilingual content, and to providing the full content of these wiki-based projects to the public free of charge. [Get involved](#) | [Log in](#)

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- WIKIBOOKS
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- WIKTIONARY

WIKIMEDIA MOVEMENT AFFILIATES

The Wikimedia projects have an international scope, and the Wikimedia movement has already made a significant impact throughout the world. To continue this success on an organizational level, Wikimedia is building an international network of associated organizations.

- WIKIMEDIA CHAPTERS
- THEMATIC ORGANIZATIONS
- WIKIMEDIA USER GROUPS

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