

The Snowden Treaty: A new International Treaty on the Right to Privacy, Protection Against Improper Surveillance and Protection of Whistleblowers

SUMMARY

Edward Snowden's revelations about the scope and scale of mass surveillance and espionage, and the immense costs he is personally paying for disclosing these human rights abuses, calls for concerted multilateral action to protect our rights and the rights of whistleblowers.

Both the UN General Assembly and the UN Human Rights Council have passed resolutions expressing "deep concern" about the impact of mass surveillance and collection of personal data on the exercise of our human rights.

Most recently the UN Human Rights Council appointed Joseph Cannataci as its first Special Rapporteur on the right to privacy, with a mandate to make recommendations ensuring the promotion and protection of the right to privacy on the international and national level. In comments to the press, Professor Cannataci has advocated for the creation of a Geneva Convention style law to safeguard data and combat the threat of massive digital surveillance. The Snowden Treaty answers this call.

The Snowden Treaty, or the International Treaty on the Right to Privacy, Protection Against Improper Surveillance and Protection of Whistleblowers, is a proposed international treaty for states that reaffirms and protects fundamental human rights – especially the right to privacy, a vital prerequisite for freedom of speech and association – in the context of the disturbing revelations by Edward Snowden. The treaty was developed by experts in international law, and legal experts on Internet freedoms and surveillance at the Electronic Frontiers Federation (EFF).

Signatories to the treaty will be obliged to enact concrete changes to outlaw mass surveillance. The Treaty would also develop international protections for whistleblowers.

As well as being required to make changes to legislation and practices to end mass surveillance, signatory states also must consider data protection and the right to privacy in all future programs and policies. This will make the preservation of privacy a fundamental responsibility of governments, ensuring the protection of these fundamental human rights for generations to come.

Oversight of state surveillance will also be stepped up. Signatories will be required to establish independent national supervision to ensure public transparency and accountability in their surveillance-related activities. They will also commit to undertaking comprehensive reviews of existing surveillance practices every 5 years, with their results made public.

The treaty greatly strengthens protections for whistleblowers above those already existing in international law. Whistleblowers will not be subject to sanctions for publicly releasing information with the reasonable intent of exposing wrongdoing. The treaty also commits signatories to take meaningful action to address violations of the right to privacy, access to information or to free and secure communications revealed by a whistleblower.

Whistleblowers will also be protected from the actions of non-signatories; by signing the treaty states guarantee the right of residence in their countries and embassies for people claiming to be persecuted as whistleblowers until the appropriate proceedings for permanent asylum have been carried out in full. This will overcome the problems Snowden faced when certain countries claimed they were unable to offer asylum until he applied for it from their soil.

The Snowden Treaty responds to a real demand at the international level, as well as among the global public, for action to combat the threats to the right to privacy, and other related rights, posed by the mass surveillance of digital communications by states.