

Global Network Initiative

Protecting and Advancing Freedom of Expression and Privacy in Information and Communications Technologies

Principles on Freedom of Expression and Privacy

1. Preamble
2. Freedom of Expression
3. Privacy
4. Responsible Company Decision Making
5. Multi-Stakeholder Collaboration
6. Governance, Accountability & Transparency

Annex A: Definitions

Annex B: End Notes

1. Preamble

These Principles on Freedom of Expression and Privacy (“the Principles”) have been developed by companies, investors, civil society organizations and academics (collectively “the participants”).

These Principles are based on internationally recognized laws and standards for human rights, including the Universal Declaration of Human Rights (“UDHR”), the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).^{1, 2}

All human rights are indivisible, interdependent, and interrelated: the improvement of one right facilitates advancement of the others; the deprivation of one right adversely affects others. Freedom of expression and privacy are an explicit part of this international framework of human rights and are enabling rights that facilitate the meaningful realization of other human rights.³

The duty of governments to respect, protect, promote and fulfill human rights is the foundation of this human rights framework. That duty includes ensuring that national laws, regulations and policies are consistent with international human rights laws and standards on freedom of expression and privacy.

Information and Communications Technology (ICT) companies have the responsibility to respect and protect the freedom of expression and privacy rights of their users. ICT has the potential to enable the exchange of ideas and access to information in a way that supports economic opportunity, advances knowledge and improves quality of life.

The collaboration between the ICT industry, investors, civil society organizations, academics and other stakeholders can strengthen efforts to work with governments to advance freedom of expression and privacy globally.

For these reasons, these Principles and their accompanying Implementation Guidelines establish a framework to provide direction and guidance to the ICT industry and its stakeholders in protecting and advancing the enjoyment of human rights globally.

The participants have also developed a multi-stakeholder governance structure to ensure accountability for the implementation of these Principles and their continued relevance,

effectiveness and impact. This structure incorporates transparency with the public, independent assessment and multi-stakeholder collaboration.

The participants will seek to extend the number of organizations from around the world supporting these Principles so that they can take root as a global standard.

2. Freedom of Expression

Freedom of opinion and expression is a human right and guarantor of human dignity. The right to freedom of opinion and expression includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.⁴

Freedom of opinion and expression supports an informed citizenry and is vital to ensuring public and private sector accountability. Broad public access to information and the freedom to create and communicate ideas are critical to the advancement of knowledge, economic opportunity and human potential.

The right to freedom of expression should not be restricted by governments, except in narrowly defined circumstances based on internationally recognized laws or standards.⁵ These restrictions should be consistent with international human rights laws and standards, the rule of law and be necessary and proportionate for the relevant purpose.^{6,7}

- Participating companies will respect and protect the freedom of expression of their users by seeking to avoid or minimize the impact of government restrictions on freedom of expression, including restrictions on the information available to users and the opportunities for users to create and communicate ideas and information, regardless of frontiers or media of communication.
- Participating companies will respect and protect the freedom of expression rights of their users when confronted with government⁸ demands, laws and regulations to suppress freedom of expression, remove content or otherwise limit access to information and ideas in a manner inconsistent with internationally recognized laws and standards.

3. Privacy

Privacy is a human right and guarantor of human dignity. Privacy is important to maintaining personal security, protecting identity and promoting freedom of expression in the digital age.

Everyone should be free from illegal or arbitrary interference with the right to privacy and should have the right to the protection of the law against such interference or attacks.⁹

The right to privacy should not be restricted by governments, except in narrowly defined circumstances based on internationally recognized laws and standards. These restrictions should be consistent with international human rights laws and standards, the rule of law and be necessary and proportionate for the relevant purpose.

- Participating companies will employ protections with respect to personal information in all countries where they operate in order to protect the privacy rights of users.
- Participating companies will respect and protect the privacy rights of users when confronted with government demands, laws or regulations that compromise privacy in a manner inconsistent with internationally recognized laws and standards.

4. Responsible Company Decision Making

The implementation of these Principles by participating companies requires their integration into company decision making and culture through responsible policies, procedures and processes.

- Participating companies will ensure that the company Board, senior officers and others responsible for key decisions that impact freedom of expression and privacy are fully informed of these Principles and how they may be best advanced.
- Participating companies will identify circumstances where freedom of expression and privacy may be jeopardized or advanced and integrate these Principles into their decision making in these circumstances.
- Participating companies will implement these Principles wherever they have operational control. When they do not have operational control, participating companies will use best efforts to ensure that business partners, investments, suppliers, distributors and other relevant related parties follow these Principles.^{10 11 12}

5. Multi-stakeholder Collaboration

The development of collaborative strategies involving business, industry associations, civil society organizations, investors and academics will be critical to the achievement of these Principles.

While infringement on freedom of expression and privacy are not new concerns, the violation of these rights in the context of the growing use of ICT is new, global, complex and constantly evolving. For this reason, shared learning, public policy engagement and other multi-stakeholder collaboration will advance these Principles and the enjoyment of these rights.

- Participants will take a collaborative approach to problem solving and explore new ways in which the collective learning from multiple stakeholders can be used to advance freedom of expression and privacy.
- Individually and collectively, participants will engage governments and international institutions to promote the rule of law and the adoption of laws, policies and practices that protect, respect and fulfill freedom of expression and privacy.¹³

6. Governance, Accountability and Transparency

These Principles require a governance structure that supports their purpose and ensures their long term success.

To ensure the effectiveness of these Principles, participants must be held accountable for their role in the advancement and implementation of these principles.

- Participants will adhere to a collectively determined governance structure that defines the roles and responsibilities of participants, ensures accountability and promotes the advancement of these Principles.
- Participants will be held accountable through a system of (a) transparency with the public and (b) independent assessment and evaluation of the implementation of these Principles.

Annex A: Definitions

Freedom of Expression: Freedom of expression is defined using Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR):

UDHR: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ICCPR: 1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Privacy: Privacy is defined using Article 12 of the Universal Declaration of Human Rights (UDHR) and Article 17 of the International Covenant on Civil and Political Rights (ICCPR):

UDHR: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ICCPR: 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Rule of Law: A system of transparent, predictable and accessible laws and independent legal institutions and processes which respect, protect, promote and fulfill human rights.

Personal Information: Participants are aware of the range of definitions for “personal information” or “personally identifiable information” and acknowledge that these definitions vary between jurisdictions. These Principles use the term “personal information” and interpret this to mean information that can, alone or in aggregate, be used to identify or locate an individual (such as name, email address or billing information) or information which can be reasonably linked, directly or indirectly, with other information to identify or locate an individual.

User: Any individual using a publicly available electronic communications service, for private or business purposes, with or without having subscribed to this service.

Best Efforts: The participating company will, in good faith, undertake reasonable steps to achieve the best result in the circumstances and carry the process to its logical conclusion.

Annex B: End Notes

¹ It is recognized that other regional human rights instruments address the issues of freedom of expression and privacy, including: The European Convention, implemented by the European Court of Human Rights; the American Convention, implemented by the Inter-American Court of Human Rights and Inter-American Commission; and the Organization of African Unity, implemented by the African Commission on Human and People's Rights.

² These Principles have also been drafted with reference to the World Summit on the Information Society Tunis Agenda for the Information Society.

³ It should be noted that the specific scope of these Principles is limited to freedom of expression and privacy.

⁴ Taken from Article 19 of Universal Declaration of Human Rights and Article of 19 of the International Covenant on Civil and Political Rights. It should be noted that these Articles reference the right to "freedom of opinion and expression", and then describe the limited circumstances in which the right to "freedom of expression" (i.e. not opinion) can be restricted. That is the approach taken by these Principles.

⁵ The narrowly defined circumstances should be taken from Article 19 of the International Covenant on Civil and Political Rights (ICCPR), namely the actions necessary to preserve national security and public order, protect public health or morals, or safeguard the rights or reputations of others. The scope of permissible restrictions provided in Article 19(3) of the ICCPR is read within the context of further interpretations issued by international human rights bodies, including the Human Rights Committee and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

⁶ See Annex A for an illustrative definition of Rule of Law.

⁷ These Principles have been drafted with reference to the Johannesburg Principles on National Security, Freedom of Expression and Access to Information. The Johannesburg Principles provide further guidance on how and when restrictions to freedom of expression may be exercised.

⁸ Participating companies will also need to address situations where governments may make demands through proxies and other third parties.

⁹ Taken from Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights.

¹⁰ "Operational control" means the power, directly or indirectly, to direct or cause the direction of the management and policies of the entity. This may be by contract, ownership of voting stock or representation on the Board of Directors or similar governing body.

¹¹ See Annex A for a definition of Best Efforts.

¹² It is recognized that the influence of the participating company will vary across different relationships and contractual arrangements. It is also recognized that this principle applies to business partners, suppliers, investments, distributors and other relevant related parties that are involved in the participating company's business in a manner that materially affects the company's role in respecting and protecting privacy and freedom of expression. The participating company should prioritize circumstances where it has greatest influence and/or where the risk to freedom of expression and privacy is at its greatest.

¹³ It is recognized that participants may take different positions on specific public policy proposals or strategies, so long as they are consistent with these Principles.