



May 2019

# FOC Joint Statement on Defending Civic Space Online

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## The issue

The Freedom Online Coalition (FOC) is deeply concerned about shrinking civic and democratic spaces online as a result of State-sponsored obstruction of free expression, peaceful assembly, and free association, notably as it relates to human rights defenders and other members of civil society. State-sponsored obstruction of these rights is a direct challenge to the FOC's goal of protecting and promoting both the exercise of human rights online and an open and interoperable Internet, as affirmed in the FOC's 'Tallinn Agenda.' A robust and protected civic space forms the corner stone of accountable, inclusive, and responsive democratic societies.

The FOC recognizes that civic space online is integral to a vibrant civic space offline. The FOC reaffirms that individuals have the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at local, national, regional, and international levels and affirms that these rights must be protected online just as they are protected offline.

Human rights defenders are individuals or groups that, in their personal or professional capacity and in a peaceful manner, engage in protecting and promoting human rights. The work of human rights defenders is crucial to protecting the aforementioned rights, and promoting gender inclusion, equality and diversity, as well as upholding democracy and the rule of law, which is essential to the flourishing of society.

In this statement, the FOC considers the term civic space broadly to describe the place, physical, online, and legal, where individuals exercise their rights. The online space is increasingly impacted by digital technologies, which presents opportunities to exercise human rights, but also poses serious challenges to their realization.

The Internet has made it easier for human rights defenders to do their work. In recent years, it has become an invaluable tool for individuals to participate in governance; organize and coordinate public protests and advocacy campaigns; and to keep the spotlight on human rights cases that might otherwise lose public interest. It can create opportunities for human rights defenders, including those from marginalised communities, to neutralize the effects of the shrinking of physical civic space in their work to promote and protect human rights and to speak out against governments that violate international human rights law. The Internet allows these individuals to meet, find information that was previously unavailable or inaccessible, and to reach broader audiences.

Conversely, the Internet can be infiltrated, co-opted, or leveraged by governments to create additional and new forms of restrictions on the exercise of human rights and fundamental freedoms that are in

contravention of international human rights law. This has a detrimental effect on human rights defenders and other members of civil society.

In many countries, human rights defenders are targeted through State-sponsored harassment, threats, disinformation, and through arrests for their human rights work. In some cases, human rights defenders have, become victims of extra-judicial killings due to their commitment to promote human rights.

Oppression through the internet has especially detrimental impacts on human rights defenders who come from or are seeking to protect marginalised communities. They are often targeted and restricted from exercising their human rights, which causes them to suffer disproportionately serious consequences. For women human rights defenders, for instance, online risks could be disproportionate as attacks against them and their organizations, as empirical evidence reflects, are often more sexualized and frequent than those of their male counterparts.

## Recent trends that threaten online civic space

### Laws and policies that affect civic space online

Civil society presence online has created a space for activists to hold government officials accountable for their actions. Many governments have introduced and adopted laws, regulations, and policies that unduly restrict civic space directly and indirectly. Such measures have led to Internet shutdowns, account deactivation, undue restrictions on software and applications, and censorship through filtering and blocking. In particular, websites that spread, promote, or discuss human rights continue to be the target of arbitrary censorship and blocking. The problem is particularly acute in States where human rights, democracy, the rule of law, and accountable governance structures are lacking.

The FOC is concerned that some governments, disregarding the rule of law, have misused laws related to counter-terrorism, anti-corruption, anti-money laundering, national security, cyber crime and cybersecurity to target and silence civil society actors and human rights defenders. All counter-terrorism and anti-cybercrime legislation and activities must always respect human rights obligations and commitments. In several cases, counter-terrorism and national security laws have been made the instrument to prosecute journalists to suppress their work, while anti-cyber crime laws have been applied in such a way as to target dissent online.

### Laws and policies to unduly limit encryption and anonymity online

Encryption and anonymizing software can facilitate digital safety for human rights defenders. Some repressive governments may seek to undermine the work of human rights defenders by unduly restricting use of encryption and anonymizing software.

These restrictions raise concerns about improperly undermining privacy protections and illegitimately hindering human rights defenders' right to freedom of expression, including the freedom to seek, receive and impart information, and the right to freedom of association. Encryption and anonymizing software have also been employed by criminals and others to conceal malicious activities and evade the law, requiring States to address their impacts on national security and effective law enforcement. Any government restrictions on encryption and anonymity must be consistent with a State's international legal obligations. In particular, interference with privacy must not be arbitrary or unlawful.

The use of the Internet for harassment and intimidation of civil society

The FOC is concerned by technical measures being taken by malicious actors to gain access to private information, the use of bots, trolls, troll farms, spreading of disinformation, and micro-targeting to discredit, harass, intimidate, threaten or de-platform human rights defenders. Women human rights defenders are especially at risk in these instances.

## Call to action

The FOC firmly believes in the value of free and open democratic and civic space, including online, and its positive effects on long-term political stability. The FOC calls on all governments to promote vibrant and resilient civic space, including respect for human rights and fundamental freedoms, democracy, and the rule of law, consistent with their obligations under the International Covenant for Civil and Political Rights in particular, which is central to the maintenance and development of an open, interoperable, reliable, and secure Internet.

Bearing in mind States' international obligations under international human rights law, the FOC calls upon

- (a) all stakeholders to work together to ensure that the Internet is designed and governed in a manner that respects human rights and enables individuals to engage in civic space;
- (b) governments, the private sector, international organizations, and civil society, to work together toward a shared approach-firmly grounded in respect for international human rights law-to evaluate, respond to, and remedy State-sponsored efforts to unduly restrict civic space, and business practices that inappropriately contribute to, facilitate, or cause restriction.

### On laws and policies that intentionally or unintentionally affect civic space

The FOC calls on all governments to refrain from enacting laws and implementing policies that unduly restrict civic space.

Governments should consult where possible with civil society in the development of laws and policies, including those on counter-terrorism, national security, cybercrime and cybersecurity, as well those that impact encryption and anonymity online, to help ensure that these laws and policies are consistent with States' obligations under international human rights law.

The FOC calls on all governments to refrain from using counter-terrorism, national security, cybercrime, cyber-security, anti-terrorism and anti-cybercrime measures and laws to unduly limit the ability of human rights defenders to exercise their human rights. Any such legislation, new or existing, should be evaluated against potential adverse effects on human rights.

The FOC encourages governments to protect and promote civic space through laws and policies that expand access to emerging technologies such as blogs, private messaging apps, and over-the-top-services rather than restricting their use through overreaching regulation and the imposition of high compliance burdens that inhibit access.

The FOC recognizes the crucial role of the information and communication technology (ICT) sector to respect human rights. The FOC encourages companies to engage in multi-stakeholder initiatives and explore best practices in line with the UN Guiding Principles on Business and Human Rights.



## Freedom Online Coalition Background

The FOC is a multilateral coalition of 30 governments that collaborate to advance Internet freedom worldwide. The Coalition provides a forum for like-minded governments to coordinate efforts and work with civil society, the private sector, and other Internet stakeholders to support the ability of individuals to exercise their human rights and fundamental freedoms online. The FOC invites all states that support an open and interoperable Internet to apply to join the FOC.

The mission and vision of the FOC are founded upon the notion that the same rights that people have offline must also be protected online; a pioneering notion originally outlined in the founding FOC Hague Declaration, reaffirmed in the Nairobi Terms of Reference , Tallinn Agenda and San José Statement, and further confirmed in UN Human Rights Council resolutions 20/8, 26/13, 28/16 and 32/13, adopted July 5, 2012, June 26, 2014, March 26, 2015, and July 1, 2016, respectively, as well as resolutions 68/167, 69/166 and 71/199 adopted by consensus by the UN General Assembly respectively on December 18, 2013, December 18, 2014, and December 19, 2016.

The FOC seeks to identify best practices regarding the application of human rights obligations and commitments in the evolving online landscape, as well as to call attention to conditions that undermine those rights.

The FOC, through the Digital Defenders Partnership, also provides rapid response to a range of threats to Internet freedom; from supporting bloggers and cyber activists who find themselves under digital attack, to helping them exercise their human rights online in Internet repressive environments. More information on the Freedom Online Coalition is available at: <http://www.freedomonlinecoalition.com/>. More information on the Digital Defenders Partnership is available at: <http://www.digitaldefenders.org/>.

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