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JOINT SOLIDARITY STATEMENT

INDONESIA: STOP USING PEGASUS TO SCARE PEOPLE INTO SILENCE





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Indonesia: Stop Using Pegasus to Scare People into Silence

July 22, 2023,

We, Manushya Foundation, ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Foundation for Media Alternatives, Free Expression Myanmar, ILGA Asia, SAFEnet, The 88 Project, and Women’s Peace Network, as the [ASEAN Regional Coalition to #StopDigitalDictatorship](#), stand in solidarity with activists and other victims of Pegasus spyware targeting, and call on the Indonesian government to immediately cease and ban the use of targeted digital surveillance technologies. The use of such technologies violates our fundamental rights and attacks the universally-protected rights to freedom of expression and access to information, privacy, peaceful assembly and association; consequently, sending a chilling effect to civil societies and the broader civic space.

We call on the Indonesian government to respect international human rights standards on the rights to privacy, protected under Article 12 of the [Universal Declaration of Human Rights](#) (UDHR) and Article 17 of the [International Covenant on Civil and Political Rights](#) (ICCPR), and to **freedom of expression and information** under Article 19 of the UDHR and ICCPR.

We denounce the government’s systemic failure to respect its international human rights obligations, and the people’s rights to freedom of expression and privacy as guaranteed by national laws. The right to freedom of expression and speech is guaranteed by Articles 28, 28E, and 28F of the 1945 Constitution, and the right to privacy by Article 28G.¹ The right to privacy and data protection in Indonesia is covered by the Personal Data Protection (PDP) Act that passed in 2022.² The use of mass surveillance is incompatible with existing concepts of privacy and violates fundamental rights guaranteed under national and international law.

Highly intrusive spyware threatens the essence of human rights. According to a June 2023 IndonesiaLeaks report, Pegasus spyware has been used in Indonesia since 2018 to spy on activists,

¹ Indonesia's Constitution of 1945, Reinstated in 1959, with Amendments through 2002, available at: https://www.constituteproject.org/constitution/Indonesia_2002.pdf?lang=en

² Undang-undang No. 27 Tahun 2022 tentang Pelindungan Data Pribadi, available at: <https://www.hukumonline.com/pusatdata/detail/lt634e841e24ca9/undang-undang-nomor-27-tahun-2022>



investigative journalists, media outlets, and politicians,³ and to effectively target the very individuals who uncover the government’s malpractices. Created by the Israeli company NSO Group, Pegasus is a zero-click mobile surveillance software licensed to governments and law enforcement around the world, and is designed to spy on any device to secretly collect information and forward it to a third party without the owner’s knowledge or consent.⁴ The programme is said to have entered Indonesia through an international shipment.⁵

Using spyware is one of the most damaging ways to invade someone’s privacy, by peering into the most personal activity on a mobile device. Authoritarian governments worldwide are using Pegasus to monitor and silence human rights defenders, activists, journalists, and others who expose abuse and uncover misdeeds.⁶ The protection of freedom of expression under international human rights law extends to speech that may be deeply offensive to some.⁷ In addition, it is essential to acknowledge that certain forms of expression, which cannot be genuinely classified as terrorist activities and do not fit within the scope of the terrorism definition, may still be deemed unlawful. The spyware compromises the confidentiality of any type of personal data, including on- and offline communications. This enables governments and affiliated entities to intercept sensitive information, thereby subjecting the individuals to harassment, intimidation, and potential threats to their personal safety. The stakes for dissent are incredibly high, encouraging many people to self-censor and refrain from participating in political activities.

³ Benar News, *Whistle-blower: Indonesia may have used Israeli malware to spy on political opponents*, (June 12, 2023), available at: <https://www.benarnews.org/english/news/indonesian/israeli-spyware-used-by-state-agencies-06122023115033.html>

⁴ Britannica, *Pegasus (spyware)*, available at: <https://www.britannica.com/topic/Pegasus-spyware>; Amnesty International, *Emergency update for all Apple users: Everything you need to know about Pegasus spyware*, (September 23, 2021), available at: <https://www.amnesty.org.au/everything-you-need-to-know-about-pegasus-spyware/>

⁵ The Jakarta Post, *Israeli-made spyware Pegasus used in Indonesia since 2018, says IndonesiaLeaks*, (June 14, 2023), available at: <https://www.thejakartapost.com/indonesia/2023/06/14/israeli-made-spyware-pegasus-used-in-indonesia-since-2018-says-indonesialeaks.html>

⁶ Citizen Lab, *Tracking NSO Group’s Pegasus Spyware to Operations in 45 Countries*, (September 18, 2018), available at: <https://citizenlab.ca/2018/09/hidden-and-see-tracking-nso-groups-pegasus-spyware-to-operations-in-45-countries/>; Human Rights Watch, *Human Rights Watch Among Pegasus Spyware Targets*, (January 26, 2022), available at: <https://www.hrw.org/news/2022/01/26/human-rights-watch-among-pegasus-spyware-targets>; Access Now, *Hacking in a war zone: Pegasus spyware in the Azerbaijan-Armenia conflict*, (May 25, 2023), available at: <https://www.accessnow.org/publication/armenia-spyware-victims-pegasus-hacking-in-war/>; Access Now, *Unsafe anywhere: women human rights defenders speak out about Pegasus attacks*, (January 17, 2022), <https://www.accessnow.org/women-human-rights-defenders-pegasus-attacks-bahrain-jordan/>

⁷ Human Rights Committee, *General Comment Number 34, Article 19: Freedom of opinion and expression*, CCPR/C/34, para.1, (July 29, 2011), available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedom-opinion-and>



In light of this, it is no surprise that authoritarian governments, in their desperate bid to retain power, have no compunction about denying its people their fundamental liberties, using such technologies to target the very individuals who uncover their abusive practices.

In Southeast Asia, the Indonesia case is not an isolated occurrence. The Thai government has also been suspected of using the spyware on pro-democracy activists and dissenting voices for years, as revealed in an investigation by Citizen Lab, iLaw, and Digital Reach from July 2022.⁸ Following the investigation, the Minister for Digital Economy and Society admitted that some departments of the government have been using Pegasus for “national security” and to combat drug trafficking.⁹ However, the civil society in Thailand did not stand idly by while their liberties were attacked. After this discovery, for the first time in Southeast Asian history, eight Thai citizens jointly filed a lawsuit on November 15, 2022, against the NSO Group for violating their rights.¹⁰ The lawsuit was dismissed,¹¹ but the problem of excessive surveillance did not escape the attention of the international community. On April 19, 2023, four United Nations Special Rapporteurs sent a letter to the Thai Government, urging it to disclose the actions taken to safeguard the rights to privacy, freedom of expression, and freedom of peaceful assembly of the affected individuals, as well as any other person in Thailand who has been subjected to Pegasus. They also reiterated the importance of upholding international human rights.¹²

⁸ The Citizen Lab, *Pegasus Spyware Used against Thailand’s Pro-Democracy Movement*, (July 17, 2022), available at: <https://citizenlab.ca/2022/07/geckospy-pegasus-spyware-used-against-thailands-pro-democracy-movement/>; iLaw, *Parasite that Smiles: Pegasus Spyware Targeting Dissidents in Thailand*, (July 16, 2022), available at: <https://freedom.ilaw.or.th/en/report-parasite-that-smiles>

⁹ iLaw, *Thai government did not deny using Pegasus for national security and drug trafficking issues*, iLaw, (July, 22, 2022), available at: <https://ilaw.or.th/node/6197>; Manushya Foundation, *#DigitalRights: Minister admits Pegasus Spyware used by Thailand for 'National Security' purposes*, (July 20, 2022), available at: <https://www.manushyafoundation.org/post/digitalrights-minister-admits-pegasus-spyware-used-by-thailand-for-national-security-purposes>

¹⁰ iLaw, *Thai activists file lawsuit against NSO Group for privacy violations using Pegasus spyware*, (November 15, 2022), available at: https://freedom.ilaw.or.th/node/1138?fbclid=IwAR1Am1v6u4uFCId7LDC4T_lzqa8JVtCC9ea29AP1vFyuFJCjBackKfhUFoE; Access Now, *Pegasus victims sue NSO in Thailand: It’s time for spyware accountability*, (November 15, 2022), available at: <https://www.accessnow.org/thailand-pegasus-lawsuit2>

¹¹ Bangkok Post, *Activists suing govt over Pegasus spyware*, (February 14, 2023), available at: <https://www.bangkokpost.com/thailand/general/2506436/activists-suing-govt-over-pegasus-spyware>

¹² OHCHR, *Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right to privacy*, (April 19, 2023), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27942>



We commend and stand in solidarity with all people speaking truth to power, pushing back against dictatorship, and championing for true democracy. We urge the Indonesian and Thai governments to uphold the obligation to ensure the enjoyment of the right to privacy, as well as the right to freedom of opinion and expression, by taking all the necessary means to safeguard these rights, including by halting their attempts to monitor HRDs, activists, and dissenting voices through the use of spywares. These actions are yet another instrument for them to strangle civic space and muzzle dissenting voices, and a reflection of the digital dictatorship in Southeast Asia.

In light of these concerns, the [ASEAN Regional Coalition to #StopDigitalDictatorship](#) calls on the Indonesian government to:

- In coordination with civil society and the private sector, implement an immediate ban on spyware technology that facilitates and enables human rights abuses;
- Reaffirm protections for all activists and human rights defenders and safeguard freedom of expression and protect civic space, by recognizing that activists, academia, investigative journalists, and human rights defenders are not legitimate surveillance targets for practicing their work;
- Conduct a full, fair, and effective investigation, ensuring complete transparency regarding the reported instances of spyware usage, and present the findings as broadly as possible;
- Establish that judicial and non-judicial grievance mechanisms are available for victims to seek remedy for the harm surveillance technology may have caused. Fundamental principles of due process and judicial oversight must be central to the regime surrounding surveillance spyware;
- Ensure that any use of surveillance technology in the countries is subject to domestic laws that only permit their use in accordance with the international human rights standards of legality, necessity, proportionality, and legitimacy of objectives;
- Ensure that information regarding the acquisition of surveillance technology is made accessible to the public, allowing for open discussions and debates, as necessary in a democratic society.

The Thai government is also being urged to respect human rights in accordance with these demands.

We also call on the international community to impose a strict moratorium on the export, sale, transfer, and use of highly intrusive spyware tools such as Pegasus, until there are in place robust regulations that guarantee their use in compliance with international human rights standards.

Finally, in line with the United Nations Guiding Principles on Business and Human Rights, **we call on NSO Group**, the company that sells Pegasus, to reveal their efforts to assess human rights impacts, and to publicly share the results of any internal investigations conducted regarding this matter. NSO Group has a responsibility to respect human rights standards and take measures to identify, prevent, and mitigate human rights risks that it causes, contributes to, or are linked with through its operations.



For more information about joining our regional campaign to #StopDigitalDictatorship in Southeast Asia, and to support our work to restore digital democracy in the region, access our online campaign at: <https://www.manushyafoundation.org/stop-digital-dictatorship-campaign>

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Endnotes:

[1] Indonesia's Constitution of 1945, Reinstated in 1959, with Amendments through 2002, available at: https://www.constituteproject.org/constitution/Indonesia_2002.pdf?lang=en

[2] Undang-undang No. 27 Tahun 2022 tentang Pelindungan Data Pribadi, available at: <https://www.hukumonline.com/pusatdata/detail/t634e841e24ca9/undang-undang-nomor-27-tahun-2022>

[3] Benar News, *Whistle-blower: Indonesia may have used Israeli malware to spy on political opponents*, (June 12, 2023), available at: <https://www.benarnews.org/english/news/indonesian/israeli-spyware-used-by-state-agencies-06122023115033.html>

[4] Britannica, Pegasus (spyware), available at: <https://www.britannica.com/topic/Pegasus-spyware>; Amnesty International, *Emergency update for all Apple users: Everything you need to know about Pegasus spyware*, (September 23, 2021), available at: <https://www.amnesty.org.au/everything-you-need-to-know-about-pegasus-spyware/>

[5] The Jakarta Post, *Israeli-made spyware Pegasus used in Indonesia since 2018, says IndonesiaLeaks*, (June 14, 2023), available at: <https://www.thejakartapost.com/indonesia/2023/06/14/israeli-made-spyware-pegasus-used-in-indonesia-since-2018-says-indonesialeaks.html>

[6] Citizen Lab, *Tracking NSO Group's Pegasus Spyware to Operations in 45 Countries*, (September 18, 2018), available at: <https://citizenlab.ca/2018/09/hidden-and-track-tracking-nso-groups-pegasus-spyware-to-operations-in-45-countries/>; Human Rights Watch, *Human Rights Watch Among Pegasus Spyware Targets*, (January 26, 2022), available at: <https://www.hrw.org/news/2022/01/26/human-rights-watch-among-pegasus-spyware-targets>; Access Now, *Hacking in a war zone: Pegasus spyware in the Azerbaijan-Armenia conflict*, (May 25, 2023), available at: <https://www.accessnow.org/publication/armenia-spyware-victims-pegasus-hacking-in-war/>; Access Now, *Unsafe anywhere: women human rights defenders speak out about Pegasus attacks*, (January 17, 2022), <https://www.accessnow.org/women-human-rights-defenders-pegasus-attacks-bahrain-jordan/>

[7] Human Rights Committee, General Comment Number 34, Article 19: Freedom of opinion and expression, CCPR/C/34, para.1, (July 29, 2011), available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>

[8] The Citizen Lab, *Pegasus Spyware Used against Thailand's Pro-Democracy Movement*, (July 17, 2022), available at: <https://citizenlab.ca/2022/07/geckospys-pegasus-spyware-used-against-thailands-pro-democracy-movement/>; iLaw, *Parasite that Smiles: Pegasus Spyware Targeting Dissidents in Thailand*, (July 16, 2022), available at: <https://freedom.ilaw.or.th/en/report-parasite-that-smiles>



[9] iLaw, *Thai government did not deny using Pegasus for national security and drug trafficking issues*, iLaw, (July, 22, 2022), available at: <https://ilaw.or.th/node/6197>; Manushya Foundation, *#DigitalRights: Minister admits Pegasus Spyware used by Thailand for 'National Security' purposes*, (July 20, 2022), available at: <https://www.manushyafoundation.org/post/digitalrights-minister-admits-pegasus-spyware-used-by-thailand-for-national-security-purposes>

[10] iLaw, *Thai activists file lawsuit against NSO Group for privacy violations using Pegasus spyware*, (November 15, 2022), available at: https://freedom.ilaw.or.th/node/1138?fbclid=IwAR1Am1v6u4uFCId7LDC4T_lzqa8JVtCC9ea29AP1vFyuFJCjBackKfhUFoE; Access Now, *Pegasus victims sue NSO in Thailand: It's time for spyware accountability*, (November 15, 2022), available at: <https://www.accessnow.org/thailand-pegasus-lawsuit2>

[11] Bangkok Post, *Activists suing govt over Pegasus spyware*, (February 14, 2023), available at: <https://www.bangkokpost.com/thailand/general/2506436/activists-suing-govt-over-pegasus-spyware>

[12] OHCHR, *Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right to privacy*, (April 19, 2023), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27942>