



# **Submission to the UN Human Rights Council 44th session report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

***Association for Progressive Communications (APC)***

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## **1. Introduction**

The Association for Progressive Communications (APC) is an international network of civil society organisations founded in 1990 dedicated to empowering and supporting people working for peace, human rights, development and protection of the environment, through the strategic use of information and communication technologies (ICTs). We work to build a world in which all people have easy, equal and affordable access to the creative potential of ICTs to improve their lives and create more democratic and egalitarian societies. As an organisation that has worked at the intersections of human rights and technology for nearly three decades, and which recognises the critical importance of ICTs for the rights to freedom of peaceful assembly and association, APC welcomes the invitation of the Special Rapporteur to reflect on the mandate and to provide its inputs regarding growing challenges for the exercise of these rights offline and online.

**2. What have been the most important areas of progress and achievements in your work over the past decade in advancing the exercise on the freedoms of peaceful assembly and of association (FoAA)? How is your organization engaging with the UN human rights mechanisms to promote FoAA? Please provide specific examples or concrete cases.**

From APC's viewpoint, it is difficult to establish boundaries between the online and offline dimensions of the exercise of the rights to freedom of peaceful assembly and association.<sup>1</sup> As Human Rights Council resolution 38/11<sup>2</sup> establishes, protections to these rights also apply to analogous interactions that take place online.

The rights to freedom of peaceful assembly and of association have two dimensions for APC's work, one in which the exercise of these rights is carried out online, such as through online campaigns, petitions, virtual protests and "hacktivism"; and one in which technology is used to support, enable, enhance and facilitate the rights to peacefully assemble and associate – for instance, digital technologies allow the mobilisation and gathering of people in offline spaces through social media and online messages.

APC has done extensive work on these two dimensions of the exercise of these rights. In terms of research, in 2016, APC published a pioneering work by Gayathry Venkiteswaran that addressed trends and challenges for freedom of assembly and association online in India, Malaysia and Pakistan, an exploration of these concepts and recommendations informed by on-ground realities.<sup>3</sup> This regional research paper offered recommendations and areas for further study in these countries as part of an APC project called Advocacy for Change through Technology in India, Malaysia and Pakistan, also known as APC-IMPACT. The project sought to build capacity around online freedom of assembly and association,<sup>4</sup> support and amplify country campaigns to improve the exercise of these rights, including through participation in country consultations in the Universal Periodic Review process and engagement with UN Special Rapporteurs around the state of internet rights in India, Malaysia and Pakistan.<sup>5</sup>

Regarding advocacy around norms, for instance, APC and other groups have worked to have these rights protected in Africa through the African Declaration on Internet Rights and Freedoms, a pan-African initiative to promote human and people's rights online, and to cultivate an internet environment for the continent's social and economic development needs and goals. The Declaration states that the internet can augment the opportunities and capabilities of individuals and groups to form associations and to manage organisations and associations. It also notes that the internet "can increase the membership and reach of associations by allowing groups of people to communicate despite physical boundaries," and that it "provides new tools

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1 APC. (2019). *The rights to freedom of peaceful assembly and of association in the digital age: APC submission to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association*. <https://www.apc.org/en/pubs/rights-freedom-peaceful-assembly-and-association-digital-age-apc-submission-unitednations>

2 <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/RES/38/11&Lang=E>

3 Venkiteswaran, G. (2016). *Freedom of assembly and association online in India, Malaysia and Pakistan: Trends, challenges and recommendations*. APC. <https://www.apc.org/en/pubs/freedom-assembly-and-association-online-india-mala>

4 <http://www.itrainonline.org/itrainonline/mmtk/irhr.shtml>

5 <https://www.apc.org/en/project/advocacy-change-through-technology-india-malaysia-and-pakistan>

for those organising assemblies offline, as well as the possibility of conducting assemblies and protests online.” Hence, the Declaration affirms that everyone should enjoy unrestricted access to the internet. Any shutting down or blocking of access to the internet constitutes a direct interference with these rights.

APC’s Feminist Principles of the Internet (FPIs),<sup>6</sup> collectively crafted by feminists and activists, primarily located in the global South, provide a framework for women’s movements to articulate and explore issues related to technology. They offer a gender and sexual rights lens on critical internet-related rights. One of the 17 principles is dedicated to “movements and public”. Under a feminist approach, the internet should be seen as a space for resistance as a continuum of our resistance in other spaces, public, private and in-between. The internet, through a feminist lens, should be seen as a tool for movement building and as a transformative political space. As Principle 5 states, the internet “facilitates new forms of citizenship that enable individuals to claim, construct and express selves, genders and sexualities. This includes connecting across territories, demanding accountability and transparency, and creating opportunities for sustained feminist movement building.”

In the field of activism and online campaigns, APC’s Take Back the Tech!, a pioneering collaborative campaign, has been calling on ICT users – especially women and girls – to take control of technology and strategically use it for activism against gender-based violence. Take Back the Tech! plans several campaigns throughout the year, with the biggest being 16 Days of Activism Against Gender-Based Violence (November 25 – December 10 each year).<sup>7</sup>

Meaningful access to the internet<sup>8</sup> is a precondition for the full exercise of the right to freedom of assembly and association online. APC, its members, and other partners have intensively worked on community networks as a means for empowering people to build and manage their own access solutions – for example, by producing research on this issue, and advocating for their recognition in policies and norms at national, regional and international level, such as through the UN’s International Telecommunication Union (ITU),<sup>9</sup> among other spaces. Through APC’s and Rhizomatica’s “Connecting the Unconnected: Supporting community networks and other community-based connectivity initiatives” project,<sup>10</sup> we have been contributing to an enabling ecosystem for the emergence and growth of community networks and other community-based connectivity initiatives in developing countries. These networks not only help to reduce the digital divide but also generate more autonomous environments, free from interference by public actors and corporations, for the management of infrastructure and content, through practices more conducive to the exercise of freedom of association and assembly, freedom of expression and

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6 <https://feministinternet.org/en>

7 <https://www.takebackthetech.net/frequently-asked-questions>

8 “Meaningful internet access” should be construed as pervasive, affordable connection (of sufficient quality and speed) to the internet in a manner that enables individuals to benefit from internet use, including to participate in the public sphere, exercise human rights, access and create relevant content, engage with people and information for development and well-being, etc.; irrespective of the means of such access (i.e. whether via a mobile or other device; whether through private ownership of a device or using a public access facility like a library). See: [www.intgovforum.org/multilingual/index.php?q=filedepot\\_download/3406/437](http://www.intgovforum.org/multilingual/index.php?q=filedepot_download/3406/437)

9 More details at: <https://www.apc.org/en/tags/itu>

10 <https://www.apc.org/en/project/connecting-unconnected-supporting-community-networks-and-other-community-based-connectivity>

other human rights online. Through their decentralised, autonomous infrastructure, community networks play a critical role to circumvent internet shutdowns imposed as strategies to curtail dissent and social protest.

Throughout the years, APC has provided guidance on the interpretation of the freedoms of peaceful assembly and of association within digital spaces through briefing papers and submissions to several UN human rights bodies. APC has engaged over the last 10 years with UN mechanisms to advocate for the express acknowledgement of online assemblies and the key role that online spaces play in facilitating the right to peaceful assembly offline.

For instance, at the beginning of the mandate, we contributed to the conceptualisation of freedom of peaceful assembly and freedom of association on the internet, and offered country-specific cases and recommendations for the newly created mandate.<sup>11</sup> APC also contributed to the 2019 report of the Special Rapporteur dedicated to the opportunities and challenges facing the rights to peaceful assembly and association in the digital age.<sup>12</sup>

APC also engaged with the Office of the High Commissioner for Human Rights on the promotion and protection of human rights in the context of peaceful protests, providing recommendations on how to guarantee respect for the exercise of these rights online both for states and the private sector.<sup>13</sup>

We also contributed to the UN Human Rights Committee's draft general comment on Article 21 of the International Covenant on Civil and Political Rights (ICCPR) regarding the right of peaceful assembly.<sup>14</sup> In our contribution, APC advocated for further engagement and clarity regarding online or digital assemblies and sought to illustrate the emerging opportunities and challenges created through the increased use of ICTs, particularly surveillance technologies.

Over the years and together with members, APC has raised awareness at the Human Rights Council about these rights and about threats and violations against them in specific countries such as Chile,<sup>15</sup> Sudan,<sup>16</sup> India<sup>17</sup> and Myanmar,<sup>18</sup> and has organised side events on this issue.<sup>19</sup>

The rights to freedom of peaceful assembly and association are closely related to a number of other human rights, civil and political as well as economic, social and cultural. Throughout these 10 years, APC has also engaged with UN bodies and special procedures regarding rights that are interconnected and are essential for the exercise of freedom of assembly and association, the right to privacy,<sup>20</sup> freedom of

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11 [https://www.apc.org/sites/default/files/APC\\_Submission\\_FoA\\_Online.pdf](https://www.apc.org/sites/default/files/APC_Submission_FoA_Online.pdf)

12 [https://www.apc.org/sites/default/files/APCSubmissionFoAADigital\\_AgeJanuary2019.pdf](https://www.apc.org/sites/default/files/APCSubmissionFoAADigital_AgeJanuary2019.pdf)

13 [https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies\\_20191015.pdf](https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies_20191015.pdf)

14 <https://www.apc.org/en/node/36047/>

15 <https://derechosdigitales.org/upr32/index.en.html>

16 <https://www.apc.org/en/node/35557>

17 <https://www.apc.org/en/news/indias-constitutional-and-civic-space-crisis-addressed-hrc43-side-event>

18 <https://www.apc.org/en/pubs/hrc41-apc-oral-statement-violations-human-rights-online-contexts>

19 [https://www.apc.org/sites/default/files/HRC\\_flier\\_Defending\\_online\\_civic\\_space.pdf](https://www.apc.org/sites/default/files/HRC_flier_Defending_online_civic_space.pdf)

20 <https://www.apc.org/en/pubs/gender-perspectives-privacy-submission-united-nations-special-rapporteur-right-privacy>

expression,<sup>21</sup> freedom of religion or belief,<sup>22</sup> and women's rights to equality and to live free from discrimination and violence,<sup>23</sup> among others.

**3. What are the main challenges that your organization has confronted in seeking to protect the freedoms of peaceful assembly and of association since 2010? How have you addressed these challenges? What part of the population was particularly affected by those challenges?**

The internet also makes it possible for groups that seek to disrupt online social movements or to target individuals for their identities and beliefs to occupy online spaces. Political parties and religious groups use the internet to mobilise supporters and in the process to dominate the online public sphere, and offline threats have been replicated and intensified online. Laws, together with extralegal measures, have led to increasing restriction of space for civil society to develop and operate, with human rights defenders, including women human rights defenders, sexual rights defenders and LGBTIQ activists, journalists, artists and others subject to arrest, censorship, and hate online, which ultimately compromises their security offline.

Globally, challenges and threats include digital divides and inequality regarding access, online gender-based violence, legal frameworks that criminalise speech and undermine civic space, surveillance and privacy violations, take-down and blocking of content and applications, and corporate control.<sup>24</sup>

***Digital divides***

Digital divides and the social and cultural barriers that contribute to them are still challenges for the exercise of the rights of peaceful assembly and of association, that, as stated, are increasingly exercised and reliant on connectivity.<sup>25</sup> People facing multiple and intersecting forms of exclusion and discrimination, especially women, minorities, and people living in the rural areas of low-income economies, often lack this connectivity.

APC has extensively worked in the last 10 years on policy advocacy, research, awareness raising and movement building around alternative connectivity strategies, such as community networks, to address the communications needs of billions of people, mainly in developing countries.

APC has been advocating for rights-based approaches to bridging digital divides in order to facilitate the rights to peaceful assembly and protest online and offline. Such approaches must be rooted in the principles of accountability, equality and non-discrimination, participation, transparency, empowerment and sustainability, and also address the underlying multiple and intersecting social, economic, political and cultural barriers to meaningful access to the internet.

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21 <https://www.apc.org/en/pubs/freedom-expression-and-private-sector-digital-age> and <https://www.apc.org/en/pubs/content-regulation-digital-age-submission-united-nations-special-rapporteur-right-freedom>

22 <https://www.apc.org/en/pubs/apc-submission-un-special-rapporteur-freedom-religion-or-belief-gender-and-freedom-religion-or>

23 <https://www.apc.org/en/pubs/online-gender-based-violence-submission-association-progressive-communications-united-nations>

24 [https://www.apc.org/sites/default/files/FOAA\\_online\\_IndiaMalaysiaPakistan.pdf](https://www.apc.org/sites/default/files/FOAA_online_IndiaMalaysiaPakistan.pdf), p. 5.

25 [https://www.apc.org/sites/default/files/APC\\_Submission\\_ITU\\_CWG\\_Internet\\_22\\_January\\_2020.pdf](https://www.apc.org/sites/default/files/APC_Submission_ITU_CWG_Internet_22_January_2020.pdf)

## ***Gender based-violence online***

While the internet has been used widely for the organisation of mass gatherings and mobilisation, it has also proven to be the medium through which counter-assemblies and trolls engage in cyberbullying, trolling, hijacking of hashtags, harassment, intimidation, doxxing and hate speech, which have the impact of impeding the legitimate exercise of assembly. Similarly, persons participating in online assemblies, especially those that touch upon issues relating to religion or politics, are often subjected to hate speech which is observed to be orchestrated in a coordinated fashion. ICTs and online spaces have also become a significant medium through which gender-based violence (GBV) is perpetrated. Online GBV – such as cyberstalking, cyberbullying, harassment and misogynist speech – affects the rights to freedom of peaceful assembly and association of women and people of diverse genders and sexualities, since it frequently leads them to withdraw from online spaces.

APC has been a pioneer organisation working for the understanding of the multiple and intersecting forms of discrimination and violence that women and people of diverse genders and sexualities experience within online spaces, and how online GBV extends to offline environments, inflicting psychological, financial and physical harm.

Online GBV is also targeted at feminist causes, and at websites and online campaigns aimed at increasing people's awareness of issues of violence against women. For example, misogynist attacks against APC's #TakeBacktheTech Twitter campaign in 2015 are an example of attempts to disrupt an online assembly. According to the organisers of that campaign, the scale of the attack "involved more than 20,000 tweets and memes containing anti-feminist, racist, violent and abusive content, which has also been targeted at those who expressed support for the #TakeBacktheTech campaign." These attacks can potentially have the impact of exposing already vulnerable individuals to further danger and cause them to engage in self-censorship.<sup>26</sup>

## ***Legal frameworks that criminalise speech online and undermine civic space***

Limitations on the rights to freedom of peaceful assembly and association on the internet take various forms, and often do not comply with human rights standards. Laws, together with extralegal measures, have led to increasing restriction of the civic space. Examples of restrictions to the rights to freedom of assembly and peaceful protest include legal frameworks aimed at combating terrorism, so-called "fake news" or cybercrime that have enabled censorship and allowed attacks against activists online.

APC research has pointed out how the frequent use of laws governing content regulation and national security, such as sharia laws and counterterrorism and cybercrime laws, are most likely to impact on the exercise of freedom of assembly online.<sup>27</sup> APC has extensively advocated to repeal any law that criminalises or unduly restricts the exercise of freedom of peaceful assembly or the right to protest, online or offline.<sup>28</sup>

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<sup>26</sup>[https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies\\_20191015.pdf](https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies_20191015.pdf)

<sup>27</sup> Venkiteswaran, G. (2016). Op. cit.

As APC has observed, states should refrain from adopting models of regulation in which government agencies, rather than judicial authorities, become the arbiters of lawful exercise of freedom of peaceful assembly or the right to protest online.<sup>29</sup>

### ***Surveillance***

Increasingly, throughout recent years, governments have been using digital technologies to surveil and undermine civic spaces. Mass and targeted surveillance interfere with the rights of freedom of peaceful assembly and of association, especially as human rights defenders and activists are disproportionately impacted by targeted surveillance. The use of surveillance technology in public spaces often happens in the absence of legal frameworks and presents a range of human rights risks, particularly with regard to the rights to peaceful assembly and association, as well as privacy.

These technologies range from the use of highly intrusive software applications used to track communications or spyware, the deployment of biometric and other data-intensive systems such as facial recognition software, the infiltration in social networks, and IMSI catchers or “stingrays”, among others.

In the context of assemblies and peaceful protests, the use of these systems opens up questions around issues of consent for the collection, processing and use of data, and in particular, how the data may be used to restrict associations and gatherings, in particular for people who are in positions of vulnerability and marginalisation.<sup>30</sup>

APC has partnered with members to draw attention to these issues in country consultations in the Universal Periodic Review process, such as in the case of Chile’s “Operation Hurricane”, which illegitimately restricted and violated the rights of the Mapuche people through interception of private communications of their political leaders and representatives.<sup>31</sup>

The 2019 edition of Global Information Society Watch (GISWatch), produced by APC in partnership with ARTICLE 19, focused on the impacts of artificial intelligence on human rights. Among other issues, it addressed how facial recognition surveillance and biometric-based systems are being deployed in the global South, posing risks for the full exercise of the rights to freedom of peaceful assembly and of association.<sup>32</sup>

### ***Take-down and blocking of content and applications***

States also order, through legal and extralegal means, the take-down or blocking of content and platforms to interfere with the rights to freedom of association and peaceful assembly. APC research has demonstrated how regulatory frameworks force companies to comply with national legislation, which in some cases is inconsistent with international rights standards, resulting in the take-down, blocking or filtering of legitimate/protected speech.

For instance, in Pakistan in 2013, the government shut down the first and only openly gay website, Queer Pakistan, on grounds of religious and social values. In Malaysia,

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28 [https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies\\_20191015.pdf](https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies_20191015.pdf)

29 Ibid.

30 Ibid.

31 <https://derechosdigitales.org/upr32/index.en.html>

32 [https://giswatch.org/sites/default/files/gisw2019\\_artificial\\_intelligence.pdf](https://giswatch.org/sites/default/files/gisw2019_artificial_intelligence.pdf)

internet service providers were subject to take-down and blocking orders issued by the regulatory body, and the electoral reform group Bersih had its website blocked days ahead of a major rally in August 2015. In April 2019, the Egyptian government blocked access to around 34,000 internet domains in an apparent bid to restrict online content related to an opposition campaign. In Turkey, a court in Ankara decided to block 136 web addresses including independent news websites such as Bianet.org in August 2019. The court's decision was based on what is widely known as the Internet Law of Turkey, which allows the blocking of websites on grounds of protection of the right to life, national security and public order, and protection of general health, but the decision did not provide any justification as to how any of the addresses listed in the decision fall under this provision.<sup>33</sup>

Over the years, APC has been advocating for states to refrain from establishing laws or arrangements that would require the "proactive" monitoring or filtering by companies of content generated by those exercising freedom of peaceful assembly or the right to protest online.

Though states should enforce and protect these rights, companies also have a responsibility regarding FoAA within digital spaces.<sup>34</sup> There is increasing intervention by platforms in the free flow of information on the internet (in particular social media platforms, messaging services and search engines), with negative impacts on freedom of expression and freedom of assembly and association through direct restrictions (censorship by removal or blocking, including automatic filtering) and prior or indirect restrictions (priority or reduction of scope) of legitimate content.

#### **4. To what extent has the work of the Special Rapporteur proved useful in support of your work and to address the above-mentioned challenges? What were the most impactful actions of the mandate vis à vis your work and these challenges?**

APC welcomed the establishment of the mandate in 2010. In these 10 years, important contributions have been made by the Special Rapporteurs to the exercise of the rights to freedom of peaceful assembly and association in the digital realm.

The current and former UN Special Rapporteurs on FoAA have recognised the significance of digital technologies in facilitating FoAA online and offline. In their reports, the mandate has recognised the increased use of the internet, in particular social media, and other ICTs as basic tools which enable individuals to organise peaceful assemblies and associate with one another. The working definition of peaceful assemblies as "an intentional and temporary gathering in a private or public space for a specific purpose" coined in the 2012 report<sup>35</sup> is of particular importance for APC's work.

Also of special importance is the first in-depth examination of FoAA in the digital age in the 2019 report, and the claim that international law that protects these rights

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<sup>33</sup>[https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies\\_20191015.pdf](https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies_20191015.pdf) , pp. 11 and 12.

<sup>34</sup> Ruggie, J. (2011). *UN Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*. [www.ohchr.org/EN/Issues/TransnationalCorporations/Pages/Reports.aspx](http://www.ohchr.org/EN/Issues/TransnationalCorporations/Pages/Reports.aspx)

<sup>35</sup>Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (21May 2012) at para 24, accessible at [A/HRC/20/27](http://www.ohchr.org/EN/Issues/TransnationalCorporations/Pages/Reports.aspx)

should not only dictate state conduct, but also be the framework that guides digital technology companies' design, control and governance of digital technologies. We also value the recognition of encryption as key for individuals and civil society actors to gather and connect in online spaces in a safe way.

Regarding the various restrictions placed on these rights exercised online, the mandate holders have noted in their reports how the rapid pace of technological development enhances the capacity of states, the private sector and individuals to undertake surveillance, interception and data collection, and that this may violate or abuse human rights. Of particular relevance to our work is the fact that, in 2019, the Special Rapporteur stated that "network shutdowns are in clear violation of international law and cannot be justified in any circumstances."

Throughout these years, the mandate has emphasised that human rights offline also apply online and that the exercise of FoAA in online spaces or through online mediums is protected by international standards. We particularly value that the Special Rapporteur has collaborated with other UN special mandate holders, the technical community, the private sector and civil society to document violations in different contexts and develop recommendations.

**5. In your view, a) where does the mandate stand today in terms of achieving progress or pushing back against closing civic space? b) What are your expectations of the mandate for the future? c) What should the mandate do more of, and where should its priorities lie in the coming years?**

We encourage the mandate to reaffirm and sustain focus on the impact of digital technologies in the transformation of the civic space, emphasising that human rights offline also apply online and that the exercise of FoAA in online spaces is protected by international standards guaranteeing FoAA.

For this, we encourage the mandate to comment on and engage with states on legislation, and to collaborate with other UN special procedure mandate holders, the technical community, the private sector, civil society and users to document violations in different contexts and develop detailed best practices for each sector. We also encourage the mandate to make use of the possibilities offered by digital technologies to disseminate its work creatively and extensively.

Regarding priorities for the coming years, we encourage the mandate to deepen its work on the following issues.

### ***Internet shutdowns***

As stated, access to the internet is a precondition for the exercise of these rights. As the Special Rapporteur observed in 2019, internet shutdowns are in clear violation of international law and cannot be justified in any circumstances. However, internet shutdowns in the context of political developments, crises and mobilisations are being observed with increasing frequency and duration.<sup>36</sup>

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<sup>36</sup>[https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies\\_20191015.pdf](https://www.apc.org/sites/default/files/APCSubmissionOHCHRThematicReportNewTechnologiesAndAssemblies_20191015.pdf) , p. 11; <https://www.apc.org/en/pubs/digital-rights-context-protests-and-social-mobilisation-ecuador-october-2019>

Worldwide, states invoke a range of justifications for the imposition of communications shutdowns, including national security, public order, public safety, countering disinformation, and protecting school examinations. This particularly affects protesters' availability to share in real time what is happening and to communicate for security purposes, to organise and to gather support for the mobilisations, and, more specifically, it negatively impacts on independent media that are unable to provide coverage of repression against protesters.

We encourage the mandate to advance its work recognising how internet shutdowns and partial disruptions of internet access, including localised or temporary restrictions, by states and/or non-state actors, are clearly inconsistent with the right to peaceful assembly offline and online, among other rights.

### ***Civic space expanding for anti-rights actors***

While the online space is shrinking for most of civil society, it appears to be expanding for groups who are developing, distributing and amplifying information and messaging that supports an ever-growing anti-rights agenda. These groups attack and undermine the work of activists and organisations focused on rights and freedoms related to abortion, LGBTIQ and gender non-conforming communities, sex education and women's rights, among other issues.

This diverse set of actors is rising in influence, coordination and tactical sophistication globally, regionally and nationally, and online digital tools are their most fertile playing fields. We encourage the mandate to address how the internet is allowing new ways for these groups to organise and spread hateful rhetoric.

### ***Facial recognition surveillance***

Privacy in public spaces is rapidly becoming more recognised as an essential value for the exercise of the rights to freedom of assembly and association. Human rights defenders and activists are disproportionately impacted by highly intrusive practices that are put in place and this negatively affects the exercise of the rights of assembly and peaceful protest.

The mandate should deepen its work to ensure that surveillance technologies are compliant with international human rights standards. In particular, we want to draw the mandate's attention to one of the fastest-growing applications of artificial intelligence systems for surveillance in public spaces: facial recognition surveillance technologies.

As stated in one of the chapters of the 2019 GISWatch report, the scale of this surveillance is unprecedented and it is a particularly invasive technology with far-reaching consequences in public life. Furthermore, this technology has been shown to be particularly prone to misidentifying people of colour, women and non-binary individuals.<sup>37</sup>

APC advocates for stricter safeguards regarding the use of facial recognition technologies, and believes that human rights impact assessments must be undertaken before such technologies are deployed in the context of peaceful assemblies. Further, APC calls for a moratorium on the export, sale, transfer, use or servicing of privately

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<sup>37</sup> <https://www.giswatch.org/node/6201>

developed surveillance tools, including facial recognition, until human rights-compliant safeguards are in place.

### ***The role and responsibilities of the private sector***

As stated above, the private sector must uphold its responsibilities regarding FoAA.<sup>38</sup> In the last years, there has been significant focus on the impact of large companies on freedom of expression online, but measures to protect the rights to freedom of peaceful assembly and of association online should be strengthened.

APC welcomes the fact that the mandate has already addressed this issue in the 2019 report, which establishes that companies should use human rights law as the authoritative global standard for ensuring human rights on their platforms. We encourage the mandate to deepen its work on the role of technology companies and their policies in relation to FoAA.

Companies' practices related to their business models undermine the security of digital spaces and make it easier for digital platforms and services to be abused and manipulated by a range of state and non-state malicious actors, including those seeking to attack the civic space. Social media platforms facilitate the formation of online groups, hold access to personal data that might include political orientation, and have the power to take down content and group pages, or prioritise content from certain groups and movements over others with their algorithms and targeted advertisements. The private sector also has a responsibility regarding internet access disruptions and shutdowns, since they should preserve the integrity of access to the whole internet, all the time.

APC has repeatedly called for companies to comply with international human rights law and ensure transparency, accountability and due process in their content moderation practices. We encourage the mandate to deepen its work on the role and responsibilities of the private sector with regards to FoAA online.

### ***Intersectional approach***

APC encourages the mandate to implement an intersectional approach when considering how all the above-mentioned issues affect the exercise of the rights to freedom of assembly and association. APC views intersectionality as a framework that gives visibility to and questions powers and privileges that emerge as a result of gender, race, ethnicity, class, and other social and cultural hierarchies.

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<sup>38</sup> Ruggie, J. (2011). Op. cit.