



DigitalRightsFoundation
"KNOW YOUR RIGHTS"

**Submission to United Nations High Commissioner for
Human Rights on new technologies and their impact on
the promotion and protection of human rights in the
context of assemblies, including peaceful protests**

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Digital Rights Foundation

Pakistan

1. Introduction

- 1.1 The right to Freedom of Assembly (FOA) is guaranteed under both international and national laws across the world. It affords individuals and groups the right to peaceful protests, subject to reasonable restrictions which are proportionate and narrowly defined. The right was enshrined in the Universal Declaration of Human Rights (UDHR) under Article 17 and Article 21¹ of the International Covenant on Civil and Political Rights (ICCPR). The right to peaceful protest and assembly is the cornerstone of the larger right to FOA and considered to be a fundamental aspect of any democratic society.
- 1.2 This submission by Digital Rights Foundation (DRF) to the [call](#) under the Human Rights Council (HRC) [res. 38/11](#) seeks to highlight the impact of new and emerging technologies on the right to peaceful assembly and protest in the contemporary world. Technologies have fundamentally changed the way political parties, associations, collectives and individuals organise all over the world. In the Global South, the impact of technologies is no less and this submission will be focusing on the experience in Pakistan to highlight regional and global issues. DRF welcomes efforts by the HRC to analyse the FOA through the lens of emerging technologies. We would urge the Council to center the experiences of activists and protestors from the Global South at the center of its analysis.
- 1.3 DRF is a not-for-profit organisation based in Pakistan working on digital freedoms. Established in 2012, DRF envisions a space in which all people, especially women and gender minorities, can exercise their right to expression without any limitations or risk. DRF works on issues of online freedom of expression, digital privacy, equal access to ICTs and online violence through research, advocacy, capacity-building and direct assistance.

2. Legal Landscape: Freedom of Assembly in Pakistan

- 2.1 The Constitution of Pakistan 1973 guarantees the right to assembly under Article 16:

“Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.”
- 2.2 In order to fully recognise this right to assembly and peaceful protests, the right to free expression and privacy act as enabling rights. Private, secure

¹ Article 21. The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

- communication and the right to express oneself publicly is seen as a prerequisite to peaceful assembly. The Constitution guarantees both these rights under Article 19 (freedom of expression) and Article 14 (dignity and privacy).
- 2.3 Pakistan is also a signatory to the ICCPR and ratified the convention in 2010. While these constitutional protections can be construed as conformity with Pakistan's international human rights obligations, the exercise of these rights in practice, however, raises serious concerns. Legislation such as the Prevention of Electronic Crimes Act 2016 (PECA) has been used to curtail online freedoms. For instance section 20 of PECA, dealing with offences against dignity of a natural person, has been applied to online speech against institutions such as the judiciary and military. Given that protests now have an online element as well, any call for an "anti-institution" protest can be branded as an offence. Furthermore, section 37 of the Act allows for blocking or removal of "unlawful" online content which includes if the content is against the "glory of Islam or the integrity, security or defence of Pakistan" or "public order, decency or morality".
- 2.4 Section 144 of the Criminal Procedure Code (CrPC) is regularly invoked by the district administration to place bans on public gatherings for a specific period of time in the name of public interest and public order. The section dates back to the colonial era and is still regularly used to prevent gatherings, rallies and processions. An order issued under the section empowers the government to register cases under Section 188 (disobedience to order duly promulgated by public servant) of the Pakistan Penal Code (PPC) for non-compliance. Impositions of section 144 are paired with mobile network shutdowns.²
- 2.5 Chapter VIII of the PPC deals with offences relating to public tranquility, criminalising "unlawful assembly". Section 141 of the PPC³ refers to an assembly of five or more persons is deemed an "unlawful assembly" if it resists any law or public authority. Online mobilisation for a protest that is deemed as an "unlawful

² "Protests against Aasia's acquittal: Section 144 imposed across country", *The News International*, November 1, 2018, <https://www.thenews.com.pk/print/388044-protests-against-aasia-s-acquittal-section-144-imposed-across-country>.

³ 141. Unlawful assembly: An assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly is; First: To overawe by criminal force, or show of criminal force, the Federal or any Provincial Government or Legislature, or any public servant in the exercise of the lawful power of such public servant; or Second: To resist the execution of any law, or of any legal process, or Third: To commit any mischief or criminal trespass, or other offence; or Fourth: By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or Fifth: By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do."

assembly” has the potential of being criminalised or being silenced using supplementary legislation applicable to online platforms.

- 2.6 Section 54(3) of the Pakistan Telecommunications Act 1996 has been used to block communications to prevent public gatherings and mobilisation. The Act allows the Pakistani federal government to suspend or modify licences to service providers “upon proclamation of emergency by the President” in the name of national security. The section has been interpreted to shut down mobile network connections, including mobile internet, during public holidays⁴ and sites of political assembly.⁵
- 2.7 In the absence of any privacy or data protection legislation, the anonymity of users and security of their communication is constantly in question. In the past the government has taken steps to restrict usage of encryption⁶ and unregistered VPNs.⁷ Furthermore efforts have been made to maintain a whitelist⁸ that allows for monitoring and control of “grey traffic.”⁹

3. Role of Technology

- 3.1 At least 75 out of 176 countries globally are actively using Artificial Intelligence (AI) technologies for surveillance purposes, including urban surveillance through smart city/safe city platforms¹⁰. Chinese tech companies led by Huawei and Hikvision are supplying much of the AI surveillance technology to countries around the world¹¹. Pakistan is one of these countries as it has launched the Safe Cities project in Punjab and the federal capital, Islamabad. The project in Lahore, Punjab, has led to the installation of 8,000 CCTV cameras in every other corner

⁴ Shahid Kamal, “Mobile phone services to remain partly suspended for two days of Ashura”, *Dawn*, September 9, 2019, <https://www.dawn.com/news/1504380>.

⁵ “Nawaz Sharif’s return prompts govt to suspend mobile phone, internet services”, *The News International*, July 13, 2018, <https://www.thenews.com.pk/latest/341267-nawaz-sharifs-return-prompts-govt-to-suspend-mobile-phone-internet-services>.

⁶ Article 19, Pakistan: Ban on internet encryption a violation of freedom of expression, 2 September 2011, Barbora Bukovska, available at: <https://www.refworld.org/docid/4e6608ce2.html>.

⁷ “All unregistered VPNs to be blocked”, *PTA*, May 9, 2014, <https://www.pta.gov.pk/en/media-center/single-media/advertisement-all-unregistered-virtual-private-net-works-vpns-to-be-blocked>.

⁸ “Standard Operating Procedure Approved by PTA for White Listing of IP Addresses”, *PTA*, February 2012, https://www.pta.gov.pk/media/sop_white_listing_2012.pdf.

⁹ Ramsha Jahangir, “Concerns over new govt plans to monitor online traffic”, *Dawn*, June 8, 2019, <https://www.dawn.com/news/1486777>.

¹⁰ Lisa Vaas, “Report: Use of AI surveillance is growing around the world”, *Naked Security by Sophos*, September 20, 2019, <https://nakedsecurity.sophos.com/2019/09/20/report-use-of-ai-surveillance-is-growing-around-the-world/>

¹¹ Matt O’Brein, “Researchers: AI surveillance is expanding worldwide”, *Associated Press*, September 17, 2019, <https://apnews.com/d1f77d3dd2684d7e8d7d47cbd192d8dd>

- of the city and uses technology provided by Huawei¹². This technology is actively used in the context of assembly; for instance, the government plans to make all CCTV cameras of the Islamabad Safe City operational before the arrival of protesters as part of the forthcoming Azadi March (scheduled for October 30, 2019) in the capital¹³, which speaks to how technology, especially artificial intelligence, has become a tool for surveillance of political protests against its citizens.
- 3.2 Other than traditionally wealthy imperialist states like France, Germany and Japan, it also includes less wealthy states such as Pakistan¹⁴. Pakistan is among the 18 countries that are using Chinese-made intelligent monitoring systems¹⁵. What started with the Chinese government expanding surveillance at the domestic level is now having global repercussions as the authoritarian state has begun exporting its surveillance technology to other countries¹⁶--Pakistan is one of those countries¹⁷.
- 3.3 Worryingly, cameras equipped with Facial Recognition Technology (FRT) are being introduced in Pakistan in the name of security. In April 2019, two Japanese experts, Makato Kataoka and Koji Uchimaya, visited the Islamabad International Airport's domestic departures and arrivals terminals along with Pakistani authorities to identify locations where the facial recognition cameras are to be installed. They identified 31 spots where such cameras could be installed, of which 15 are in passenger boarding bridges, three are at entrance gates and the rest are around baggage holds and departures counters in domestic lounges. Experts will also visit the Allama Iqbal International Airport in Lahore and Jinnah International in Karachi after facial recognition cameras have been

¹² Shmyla Khan, "Punjab Government's Safe Cities Project: Safer City or Over-policing", *Digital Rights Foundation*, August 2018,

<https://drive.google.com/file/d/1Uc3blQzQB-L7tbFt2IBewCIK3Fc535H2/view?ts=5b731638>.

¹³ Kasim Abbasi, "Glitches in Safe City CCTVs to be removed before JUI-F protest march", October 11, 2019, <https://nation.com.pk/11-Oct-2019/glitches-in-safe-city-cctvs-to-be-removed-before-jui-f-protest-march>

¹⁴ Lisa Vaas, "Report: Use of AI surveillance is growing around the world", *Naked Security by Sophos*, September 20, 2019,

<https://nakedsecurity.sophos.com/2019/09/20/report-use-of-ai-surveillance-is-growing-around-the-world/>

¹⁵ Paul Mozur, Jonah M. Kessel and Melissa Chan, "Made in China, Exported to the World: The Surveillance State", *The New York Times*, April 24, 2019,

<https://www.nytimes.com/2019/04/24/technology/ecuador-surveillance-cameras-police-government.html>

¹⁶ Paul Mozur, Jonah M. Kessel and Melissa Chan, "Made in China, Exported to the World: The Surveillance State", *The New York Times*, April 24, 2019,

<https://www.nytimes.com/2019/04/24/technology/ecuador-surveillance-cameras-police-government.html>

¹⁷ Paul Mozur, Jonah M. Kessel and Melissa Chan, "Made in China, Exported to the World: The Surveillance State", *The New York Times*, April 24, 2019,

<https://www.nytimes.com/2019/04/24/technology/ecuador-surveillance-cameras-police-government.html>

installed at the Islamabad International Airport¹⁸. A security official said that these cameras will be connected to recording devices to preserve footage of people's movement. He added that facial recognition software will allow police and security officials to match people's faces and track them¹⁹. The Ministry of Information and Technology is also working on a project called 'Design and Development of an FPGA-Based Multi-Scale Face Recognition System', which would cost Rs13.84 million. It is being developed by Pakistan Air Force-Karachi Institute of Economics and Technology (PAF-KIET)²⁰. There are plans to introduce FRT in the safe cities project²¹ and for policing purposes.²²

4. New Opportunities

- 4.1 Mobilisation for protests and political action is often supplemented with digital tools. Online spaces become soundboards for spreading the word regarding protests and gatherings as well as tools for coordination and communication among organisers and protestors. Furthermore, coverage of protests, especially when dissent groups are excluded from mainstream media, during and after the protest has been made accessible and instantaneous through use of smartphones. Movements and protests in different geographical locations and time zones are now linked through innovative use of social media.
- 4.2 While technological advancement has introduced new ways of invasion into people's privacy, there are also ways in which it has provided avenues to citizens to exercise their right to assembly. Popular youth movements have provided a platform that demands such as an inquiry into the extrajudicial killings and abductions of citizens by law-enforcement agencies. Despite state-led crackdown, on the supporters of some of these movements, mostly ordinary citizens from across the country, they took to social media to mobilise people for their protests and also to draw attention to human rights violations²³. In an age

¹⁸ "Experts identify 31 spots for facial recognition cameras at IIA", *Dawn*, April 10, 2019, <https://www.dawn.com/news/1474998/experts-identify-31-spots-for-facial-recognition-cameras-at-iiia>.

¹⁹ "Experts identify 31 spots for facial recognition cameras at IIA", *Dawn*, April 10, 2019, <https://www.dawn.com/news/1474998/experts-identify-31-spots-for-facial-recognition-cameras-at-iiia>

²⁰ "Pakistan developing security system for facial recognition in video surveillance", *The News*, March 28, 2018, <https://www.thenews.com.pk/latest/297823-pakistan-developing-security-system-for-facial-recognition-in-video-surveillance>

²¹ Ikram Junaidi, "Nadra aims to complete safe city project by October", *Dawn*, July 14, 2015, <https://www.dawn.com/news/1194383>.

²² Shabbir Hussain, "Capital's cops to get facial recognition devices soon", *The Express Tribune*, March 27, 2019, <https://tribune.com.pk/story/1937963/8-capitals-cops-to-get-facial-recognition-devices-soon/>.

²³ Qurratulain Zaman, "A movement of millennials in Pakistan is dubbed the Pashtun Spring", *Deutsche Welle*, April 9, 2019, <https://www.dw.com/en/a-movement-of-millennials-in-pakistan-is-dubbed-the-pashtun-spring/a-4822253>

when state-led crackdown against movements has meant that the mainstream media would not cover certain protests, the right to freedom of assembly via digital media often becomes the only platform to make sure that their voice continue to be heard.

- 4.3 Similarly, Pakistan women were mobilised for the Aurat March, which was the women's march in different cities of Pakistan on March 8, via digital media. Organisers spread the word through digital art and messages, and the turnout was impressive in major cities across Pakistan.

5. New Challenges

- 5.1 It is important to connect the question of access to freedom of assembly and their intersection with digital technologies. As pointed out by the Association for Progressive Communications (APC) in their submission to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, those who are more marginalised socially, politically and economically are excluded from the digital aspects of the right to free assembly, resulting in a double exclusion.²⁴
- 5.2 The use of artificial intelligence by modern nation states illustrates how technological advancements are being co-opted by these states in the neoliberal, imperialist era that we are living in. On the one hand, these nation states boast about how advanced their technology is getting better day by day, but the question is, to whose advantage is this progress being used? The safeguarding of the modern nation states' borders is always given precedence over citizens' right to privacy and right to assembly in the security framework of the state. These rights of the citizen stand subordinated to the 'national interest' of any given state. Meanwhile, 'national interest' is a broad category and does not have any concrete definition. Yet it remains one sweeping category that is used to crush dissent of all sorts.
- 5.3 There have been multiple cases in which Pakistani citizens' data, collected by both state agencies such as NADRA and private entities such as Careem, has been compromised. In such breaches, the state or private companies are never held accountable for letting the compromise of data occur.
- 5.4 Leaked images of couples travelling in various vehicles went viral on social media in January this year. The images were captured by Safe City cameras in

²⁴ "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", *Association for Progressive Communications*, January 2019, <https://www.apc.org/en/pubs/rights-freedom-peaceful-assembly-and-association-digital-age-apc-submission-united-nations>.

- Islamabad. The leaked data raised questions about the project, particularly about whether such a project is keeping people safe or putting them at risk²⁵.
- 5.5 Similarly, law enforcement agencies recently arrested the University of Balochistan's security branch officer and surveillance in-charge for blackmailing students with the help of immodest video content. The accused had secretly installed cameras in various blocks of the university, and footage of these equipment was being used to blackmail the students, both girls and boys²⁶.
- 5.6 The above-mentioned examples show the extent to which surveillance equipment can be misused to blackmail even consenting adults in the specific patriarchal context of Pakistan. Under Pakistani patriarchy, it is shameful to engage in affection or any behaviour that is even remotely sexual or romantic in public regardless of whether or not the people engaging in the affection are married.
- 5.7 In the context of South Asian countries such as Pakistan, the concept of privacy and anonymity often plays out in a gendered manner. Attendance in protests and demonstrations can put women and gender minorities at increased risk and vulnerability of violence and restrictions from the family and other patriarchal institutions. Women and minorities who attend protests do so at great personal risk and often request anonymity. Given the ubiquity of technology, in the form of CCTV cameras and smartphones, vulnerable individuals photographed at protests are often put at risk of harassment and retribution when their pictures are disseminated online. In this context, the right to privacy is intrinsically linked to the freedom of assembly and association.
- 5.8 Another major concern is the spread of technology and its use by authoritarian regimes, such as China, in the age of globalisation. In the wake of the protests that broke out in Hong Kong, China's Ministry of Industry and Information Technology announced in late September that from December onwards, it will use facial recognition to police 800+ million mobile internet users²⁷. This means that anyone opening a new internet access account or buying a new mobile phone must have their facial scan on file with the government²⁸. This will make it more difficult to hide your identity on the Chinese internet or via mobile phone.

²⁵ Munawer Azeem, "Leaked Safe City images spark concern among citizens", *Dawn*, January 27, 2019, <https://www.dawn.com/news/1459963>

²⁶ "FIA unearths major blackmailing scandal in Balochistan University", *ARY News*, Oct 14, 2019, <https://arynews.tv/en/blackmailing-scandal-balochistan-university/>

²⁷ Zak Doffman, "China Slams 800M+ Internet Users With Facial Recognition Monitoring To Get Online", *Forbes*, October 12, 2019, <https://www.forbes.com/sites/zakdoffman/2019/10/12/facial-recognition-will-restrict-mobile-internet-us-e-for-800m-peoplefrom-december/#f357db37d2ad>

²⁸ "China: Big Brother Battles To Control The Future", *Strategy Page*, October 10, 2019, <https://www.strategypage.com/qnd/china/articles/20191010.aspx>

Given how China is exporting its surveillance technology to different countries, the spread of this aspect of the authoritarian regime is likely to reach other countries with a similar security framework such as Pakistan. It would also place even bigger hurdles in mobilising people for exercising their right to assembly as such technology would enable states to trace the people who attempt any such mobilisation. The requirement for biometric registration when obtaining a SIM card in Pakistan has ensured that use of mobile services, including mobile internet, is linked to one's Computerized National Identity Card (CNIC).²⁹

- 5.9 In this regard, there is a huge concern regarding the spread of such technology to non-state actors as well. Just like surveillance systems based on artificial intelligence are being used to single out Uighur Muslims in China based on their distinctive features³⁰ and racially profile people of colour in the US,³¹ there is the likelihood of increased targeting of ethnic minorities in other countries as well if terror groups get their hands on such technology. And given the direct and indirect role of different competing regional powers in providing patronage (such as funds) to terror groups³² operating in rival countries and within their own borders, there is a high chance that such technology may be handed over to terror groups that would use it target minorities that have distinctive features. This would make it even more difficult for minority groups to exercise their right to assembly.
- 5.10 Finally, Pakistan unfortunately has a culture of internet shutdowns in the name of security. Pakistan shutdown internet in August and September 2019 in the part of Kashmir that it administers as protests broke out in the aftermath of India's revocation of Article 370³³. Mobile signals were blocked in Bannu at the same time as a protest in the area.³⁴ A significant impact of these network

²⁹ "Pakistan takes aim at Sim cards in anti-terror drive", *BBC News*, March 24, 2015, <https://www.bbc.com/news/world-asia-31924186>.

³⁰ Paul Mozur, "One Month, 500,000 Face Scans: How China Is Using A.I. to Profile a Minority", *The New York Times*, April 14, 2019, <https://www.nytimes.com/2019/04/14/technology/china-surveillance-artificial-intelligence-racial-profiling.html?module=inline>

³¹ Tom Perkins, "'It's techno-racism': Detroit is quietly using facial recognition to make arrests", *The Guardian*, August 17 2019, <https://www.theguardian.com/us-news/2019/aug/16/its-techno-racism-detroit-is-quietly-using-facial-recognition-to-make-arrests>.

³² Anwar Iqbal, Pakistan placed on FATF 'grey list' despite diplomatic efforts to avert decision, *Dawn*, June 28, 2018, <https://www.dawn.com/news/1416630>

³³ "Pakistan shuts down internet in Kashmir, restricts access in Punjab and beyond", *NetBlocks*, September 10, 2019, <https://netblocks.org/reports/pakistan-shuts-down-internet-in-kashmir-restricts-access-in-punjab-and-beyond-3Anw7dB2>

³⁴ "Pakistan shuts down the internet three times in one week", *AccessNow*, November 6, 2018, <https://www.accessnow.org/pakistan-shuts-down-the-internet-three-times-in-one-week/>.

closures and internet blackouts is that it prevents citizens' mobilisation for protests. Furthermore, it increases the likelihood of the spread of misinformation.³⁵

6. Conclusion

- 6.1 Technological advancement opens certain avenues for citizens to exercise their right to FOA, as we have seen in the examples of protest mobilisations done by the youth groups and women's marches across Pakistan. At the same time, however, it grants broad freedoms to nation states to misuse this technology to suppress these very rights in the name of public order or national security. Under the national security framework of modern nation states, the protection of their national interests, something that has yet to be concretely defined, takes precedence over the citizens' right to privacy and freedom of assembly. Furthermore, states also enjoy the power to cut off technological access to citizens under the same pretext of security concerns. However, depriving citizens of technological access often serves the purpose of depriving them of the right to freedom of assembly, as we have seen in the form of mobile network closures in Bannu when a youth-led protest was happening or when, after protests broke out in Kashmir when India revoked Article 370, the Pakistan administration shut down network access in the part of disputed territory that the country administers.
- 6.2 Technological innovation and legal apparatus under capitalism is co-opted for the protection of borders of modern nation states instead of fulfilling the needs and democratic rights of citizens and humanity in general. In light of these challenges DRF recommends that:
 - 6.2.1 The right to FOA be incorporated into legislation, policies and strategies dealing with online spaces at the local, national, regional and international level.
 - 6.2.2 States abandon the use of internet and network shutdowns as a tool for preventing assembly or dissemination of misinformation given its disproportionate and ineffective nature.
 - 6.2.3 The right to anonymity be protected online with reference to organising, planning and attendance of peaceful protests and assembly.
 - 6.2.4 Situate FOA from the perspective of gendered bodies whose right to mobility is limited and right to privacy is integral to their participation in public assembly.

³⁵ "Pakistan shuts down internet in Kashmir, restricts access in Punjab and beyond", *NetBlocks*, September 10, 2019, <https://netblocks.org/reports/pakistan-shuts-down-internet-in-kashmir-restricts-access-in-punjab-and-beyond-3Anw7dB2>

6.2.5 Protocols and safeguards be developed at the international level to regulate international exchange of surveillance technology between countries, and between countries and non-state actors.