



To United Nations High Commissioner for Human Rights
From Elizabeth Farries
Date 15 October 2019

12 members¹ of the International Network of Civil Liberties Organisations (INCLO) thank the United Nations High Commissioner for Human Rights, in accordance with Human Rights Council resolution 38/11, for your call for inputs on the promotion and protection of human rights in the context of peaceful protests.

I Interference with technology in the context of protest

INCLO can report case study examples of the human rights challenges posed by interferences with the availability and use of information and communications technologies in the context of protests.

As we summarise in our 12 member publication, [Spying on Dissent](#), at p13:

- **IN INDIA**, statistics show how internet shutdowns have almost become part of the standard operating procedures of the state during times of perceived unrest. The longest internet shutdown was 133 days in 2016 and there was another long shutdown of 100 days in 2017.
- **IN SOUTH AFRICA**, and neighbouring countries, media reports indicate that government-directed internet outages have become the rule rather than the exception. Several countries, such as Gabon, Ethiopia, Chad, Uganda, Zimbabwe and South Africa, have shown in recent years that they are willing and capable of shutting down the internet or blocking mobile signals to stifle unfavourable content.

Similarly, as INCLO reports in our [April 2019 statement](#):

- **In RUSSIA**, the government has systematically restricted Internet freedoms in recent years, by blocking access to online resources, censoring media and persecuting users for expressing opinions online. Popular Internet services are also under pressure, including global platforms and instant messengers. Russian authorities are requiring them to lower users' privacy protections and weaken or remove encryption, creating a backdoor for intelligence services and police.

¹ Submitting INCLO members are: Agora International Human Rights Group (Agora) in Russia, the American Civil Liberties Union (ACLU), the Association for Civil Rights in Israel (ACRI), the Canadian Civil Liberties Association (CCLA), the Centro de Estudios Legales y Sociales (CELS) in Argentina, Dejusticia in Colombia, the Egyptian Initiative for Personal Rights (EIPR), the Hungarian Civil Liberties Union (HCLU), the Irish Council for Civil Liberties (ICCL), the Kenya Human Rights Commission (KHRC), the Legal Resources Centre (LRC) in South Africa, and Liberty in the UK.

Further, in April 2019, [INCLO members asked](#) Google, Amazon, Microsoft, and Apple to condemn the Moscow court ban of the encrypted messaging service Telegram. We wrote in an open letter:

- ‘This is one in a series of attacks on people’s fundamental rights to privacy and freedom of expression in Russia. Banning Telegram has prompted a wider internet crackdown. The government is now blocking millions of Amazon and Google Internet Protocol addresses, affecting even more users.’

II Use of new technologies in the context of protest

INCLO has also described in [Spying on Dissent](#) the human rights challenges posed by the use of new surveillance technologies by police in the context of protests. We describe how technologies interfere with the privacy, expression and assembly rights of protestors in 13 of our INCLO member countries. For example:

Open Source Intelligence

INCLO describes how police are watching protestors on social media networks:

- **IN ARGENTINA** (p27), the government blocked NGO attendance at the WTO based on people’s online presence.
- **IN ISRAEL** (p24), officials denied a visa holder entry based on their social media presence.
- **IN HUNGARY** (p33), there is increasing evidence that the police have started to watch social media for when people organise or make public calls for protest.
- **IN EGYPT** (p30), prosecutors effecting anti-protest laws use evidence of Facebook and Twitter activity in court.

Face Surveillance

INCLO describes how protestor images are captured, analysed, and stored:

- **IN CANADA** (p26), student protestors were regularly filmed throughout a 2018 strike at York University.
- **IN THE UK** (p41), police use facial recognition technology in public spaces, creating bespoke watchlists that include those not accused of crime.

Hacking

Some police are known to use highly intrusive surveillance devices to access protestors’ phones and tablets:

- **IN THE US** (p21), an ACLU investigation into Florida police use of IMSI catchers to watch protestors revealed a worrying lack of internal oversight and regulation.
- **IN RUSSIA** (p11), communications service providers are obliged to install a special device on their networks that allows the Federal Security Service to directly collect traffic and users’ data.

III Rights engaged

Protest under threat by new surveillance technologies

As we describe in [Spying on Dissent](#), protests are a central tool of public expression and engagement often serving as the only avenue for advocacy seeking political, social or economic reforms. Despite the importance of protest to a free society, many states fail to adequately protect protest and public speech. Further, recent years have seen a sharp expansion of online surveillance technologies by policing institutions against protests and protesters, and association.

Lack of democratic engagement or human rights safeguards

INCLCLO's case studies from 13 countries demonstrate that the way policing institutions select and deploy online surveillance technologies against protesters often occurs without necessary human rights and democratic safeguards. There is often no clearly defined legal framework specifying when and how these tools can be used, no limits or safeguards for fundamental freedoms and individual rights, and no due regard for whether deployment is compatible with human rights protections. There is no clarity about judicial requirements or instances for judicial review. The governing rules and practices are not transparent; there is no publicity or information about police and security institutions' use and no clear way of accessing this information. There are insufficient mechanisms for overseeing these institutions' operations, as well as limited avenues for pursuing accountability and redress when these surveillance tools are used in ways that are not compatible with rights

Rights impacted

INCLCLO member case studies demonstrate the increasing use of online surveillance technologies by policing institutions in protest contexts. These case studies show real harms for democratic norms from these expanding powers: harms to individuals and their civil and human rights; harms to public trust and to the climate for political activism and dissent; and harms to the rule of law and the very fabric and structures of democratic societies. Protesters are being harassed, intimidated, scared away and barred from exercising their protest rights through these technologies' application.

INCLCLO calls for international standards

There are few international standards with clear guidelines to direct states as to how online surveillance technologies might be used by policing institutions in the context of protests. Important considerations include how these technologies should be prohibited or regulated, what protections and safeguards should exist, how abuses should be investigated and perpetrators be held accountable, and what kind of mechanisms for control, oversight and accountability should be developed. **Further, the cumulative effect of these technologies on human rights has yet to be evaluated, and as such the international community has not properly considered the question of whether it should ever be permissible to deploy some or all of these technologies, in protest contexts or at all.**

Read INCLCLO's standards recommendations in [Spying on Dissent](#) (p16).

About INCLO

INCLO is a network of 13 independent, national human rights organisations across the globe. We work together to promote fundamental rights and freedoms. Together we are: the Agora International Human Rights Group (Agora) in Russia, the American Civil Liberties Union (ACLU), the Association for Civil Rights in Israel (ACRI), the Canadian Civil Liberties Association (CCLA), the Centro de Estudios Legales y Sociales (CELS) in Argentina, Dejusticia in Colombia, the Egyptian Initiative for Personal Rights (EIPR), the Human Rights Law Network (HRLN) in India, the Hungarian Civil Liberties Union (HCLU), the Irish Council for Civil Liberties (ICCL), the Kenya Human Rights Commission (KHRC), the Legal Resources Centre (LRC) in South Africa, and Liberty in the United Kingdom.

We support and mutually reinforce the work of member organisations in their respective countries and collaborate on a bilateral and multilateral basis. INCLO works on four thematic issues: (1) protest rights and policing; (2) surveillance and human rights; (3) religious freedom and equal treatment; and (4) protecting civic space.

INCLO is a recognised voice in regional and international forums. Our comprehensive research reports on matters related to protest and surveillance include:

- *Spying on Dissent: Surveillance Technologies and Protest (2019)*
https://www.inclo.net/pdf/spying-on-dissent-Report_EN.pdf
- *Defending Dissent: Towards State Practices that Protect and Promote the Rights to Protest (2018)* <https://www.inclo.net/pdf/Defending-Dissent-Report-Complete-WEB-FINAL.pdf>
- *Unanswered Questions - International Intelligence Sharing (2018)*
https://www.inclo.net/pdf/iisp/unanswered_questions.pdf
- *Call for action – Regulate Intelligence Sharing (2018 with Privacy International)*
<https://www.inclo.net/pdf/Intelligence-Sharing-Brochure-WEB.pdf>
- *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons (2016)*
<https://www.inclo.net/pdf/lethal-in-disguise.pdf>
- ‘The Right to Privacy in the Digital Age’ - Submissions towards the Office of the High Commissioner on Human Rights regarding Human Rights Council adopted resolution 34/7 (2018) <https://www.inclo.net/pdf/ohchr-en.pdf>
- *Surveillance and Democracy: Chilling Tales from Around the World (2016)*
<https://www.inclo.net/pdf/surveillance-and-democracy.pdf>
- *Take Back the Streets: Repression and Criminalization of Protest Around the World (2013)*
<https://www.inclo.net/pdf/take-back-the-streets.pdf>

Learn more at <https://inclo.net>