3. The movement to oppose facial recognition

In September 2020, city councilors in Portland, Oregon, unanimously passed an ordinance to ban the use of facial recognition technology by police and city officials, effective immediately. Then, again without any dissenting voices, and in a first for world politics, the Portland City Council passed a second ordinance, effective at the start of 2021, to ban businesses, such as hotels, stores, and restaurants, from deploying the technology in public spaces. “Technology exists to make our lives easier,” said Portland mayor Ted Wheeler, “not for public and private entities to use as a weapon against the very citizens they serve and accommodate.”

Amazon had lobbied against the municipal laws. But this did little to sway city councilors, who concluded that automated facial recognition is biased, discriminatory, and a threat to the rights, liberties, and privacy of every resident of Portland. “All Portlanders are entitled to a city government that will not use technology with demonstrated racial and gender biases that endanger personal privacy,” argued Mayor Wheeler during a city council meeting.

Passage of the ordinances was a major victory for activists living in Portland. “With today’s vote, the community made clear we hold the real power in this city,” said Jann Carson of the ACLU of Oregon. “We will not let Portland turn into a surveillance state where police and corporations alike can track us wherever we go.”

Anti-FRT campaigners hailed Portland’s ordinances as a big step toward eradicating facial recognition technology across the United States. “Now, cities across the country must look to Portland and pass bans of their own,” said Lia Holland, a director at Fight for the Future. “We have the momentum, and we have the will to beat back this dangerous and discriminatory technology.”

Since Portland passed these ordinances, as we saw in the Introduction, jurisdictions all around the world have been enacting regulations, moratoriums, and bans to rein in facial recognition technology. Are activists...
on track to “beat back” this technology? Answering this question requires a fuller picture of the politics, organizations, and coalitions comprising the anti-FRT movement. Creating a picture of any transnational social movement is like trying to put together a jigsaw puzzle the size of a football field, when some pieces are missing, some are torn, and some don’t fit at all. Worse still, the pieces are constantly changing shape, new pieces are always coming into play, and some pieces are fading away.

With that caveat, this chapter aims to piece together a picture of the anti-FRT movement, with the goal of then evaluating its influence in subsequent chapters. For background, I begin with a brief overview of the nature of transnational social movements within world politics.

**TRANSNATIONAL SOCIAL MOVEMENTS**

The past few decades have seen the associational layers of transnational social movements thickening as the number of NGOs grows and the internet amplifies voices of dissent from every corner of the world. These layers, as the Introduction mentioned, tend to be thicker in Western democracies than in authoritarian states and low-income countries. There are exceptions, however, such as grassroots activism for water rights, community advocacy for rights of nature, and direct-action resistance to corporate land grabbing, mining, and hydroelectric dams. Pro-democracy movements, too, have swept away many ruthless dictators over the years. For most issues, though, the layer of civil society activity in repressive or impoverished regimes – not surprisingly – tends to be thinner.

Inside each layer, we find campaigners lobbying governments, shaming corporations, and organizing grassroots protests. We see them running research organizations, building websites, and launching lawsuits. We find them striving on social media to influence debates, sway public opinion, and propagate norms of right and wrong. And we see them building coalitions of like-minded groups to increase the size and scope of campaigns.

Some coalitions focus exclusively on local issues; others, commonly called transnational advocacy networks in the field of international relations, reach across national boundaries. Transnational advocacy networks are value-based, ideas-oriented associations of policy analysts, lawyers, scientists, writers, grassroots campaigners, and online influencers who are communicating and cooperating across sovereign borders. These networks support, interact, and overlap with local campaigns, with the lines increasingly blurred in the age of social media activism as the
Identified, tracked, and profiled messaging of individual campaigners and international NGOs becomes progressively indistinguishable for the general public.

Nonprofit organizations employ some of the people participating in these networks. But far more of the participants are volunteers, contributing on and off while juggling the responsibilities of school or another job, including, possibly, working for a government or corporation. Advocacy on behalf of a government or corporation is not part of the internal politics of a transnational social movement, but rather part of state and corporate challenges to this politics. Business and state employees become part of a transnational social movement, however, when they step outside of their formal jobs to advocate for a political, social, or environmental cause – say, by marching in a rally, signing a petition, or hacking a website in the dead of night.

The politics of transnational social movements looks very different across issues. This politics also changes over time, as values and concerns shift, and as organizations come and go. Large, well-established international nonprofits – ones such as Amnesty International, Greenpeace, and Human Rights Watch – are at the core of some movements. Local resistance by marginalized communities energizes some movements, as with the right to water. Others are bottom-up, spontaneous uprisings, such as the Occupy Movement of 2011 and school strikes for climate action since 2018.

Coalitions of NGOs calling for worldwide action tend to have an easier time forming and growing when the campaign message is relatively simple – say, calling for a ban on chemical weapons or an end to commercial whaling – than when issues are complex and solutions are sharply contested, as with climate action or reproductive rights. Complex issues tend as well to draw more diverse perspectives into a campaign. Diversity of support can strengthen a movement by expanding its support base. But it can also create fissures, undermine consistent messaging, and splinter a campaign as adversaries work to divide and conquer subgroups.

Keeping these general features of transnational social movements in mind, let’s now turn to delineate more precisely the organizations and differing arguments running through the anti-FRT movement.

THE POWER OF DIVERSITY

Since the early 2010s, the anti-FRT movement has been growing in size and reach, increasingly involving a more diverse array of civil society organizations from around the world. To amplify the voices of resistance,
these organizations have been forming local, national, regional, and international coalitions. Volunteers and concerned citizens are a vital source of energy, and in some ways the anti-FRT movement is a bottom-up, grassroots uprising. Often, though, longstanding civil society organizations are supporting – and at times even coordinating – local campaigns. Many of these organizations campaigning locally and nationally, moreover, are also participating in transnational advocacy networks, which in turn are reinforcing the messaging and lobbying power of local campaigners.

As I mentioned in the Introduction, those advocating for civil rights, privacy rights, responsible digital technology, human rights, and civil liberties are at the forefront of the movement. At the same time, however, as public awareness rises, concerns deepen, and the use of FRT for policing, surveillance, and facial analysis spreads, the movement is broadening to also include, among others, those advocating for racial justice, LGBTQ+ rights, social justice, immigrant rights, faith-based ethics, consumer rights, and democratic freedoms.

This diversity is proving to be a great strength of the movement, generating a broad base of political support and empowering campaigns with the resources, experience, and people power of a large number of well-established civil society organizations. Significantly, cooperation has remained strong even as the movement’s size and diversity has grown. At a basic level, everyone agrees that FRT risks harming civil society. Everyone agrees, too, that greater controls are necessary. What exact controls are best is still up for debate, although, as we’ll see next, in recent years more and more civil society organizations have started to call for absolute, enduring bans on the use of facial recognition technology for routine policing, mass surveillance, and discriminatory profiling.

THE GROWING CALLS FOR BANS

Critics of facial recognition technology share several core general beliefs. They think the technology currently on the market is biased, discriminatory, and inaccurate. They believe the technology, no matter the degree of accuracy, has the potential to deepen invasive surveillance, cast a pall over civil society, and unfairly target minorities, such as Muslim Americans in the United States and Uyghur Muslims in China. And they see a need for much stronger laws to control the use of the technology for law enforcement, state surveillance, school and store security, business operations, predictive policing, emotion analysis, behavioral assessment, and the profiling of citizens and customers.
There is less consensus, however, on how best to rein in facial recognition technology. Some are arguing for strict controls along the lines of managing hazardous waste. Some are calling for laws along the lines of wiretapping in the United States. Some are arguing for light state regulations along the lines of airline safety. And some are calling for governmental guidelines and corporate codes of conducts as the best way to maximize the benefits and minimize the risks of abuse.7

At the same time, though, increasing numbers of activists have come to the conclusion that comprehensive, permanent bans are necessary on the use of FRT for routine policing, mass surveillance, and discriminatory profiling, arguing that no regulatory system is ever going to prevent abuse by security forces, politicians, and corporations. Professors Woodrow Hartzog and Evan Selinger capture this sentiment well. Facial recognition technology, they argue, is “potently, uniquely dangerous – something so inherently toxic that it deserves to be completely rejected, banned, and stigmatized. … The weak procedural path proposed by industry and government will only ensure facial recognition’s ongoing creep into ever more aspects of everyday life.”8

Facial recognition technology “is too dangerous to ever be regulated,” argues Jennifer Jones at the ACLU of Northern California.9 Trying to do so, Hartzog and Selinger add, will inevitably end up normalizing the technology within society, which would then smother any opposition. It must never “become too entrenched in our lives,” they write. If this were to occur, “critics of facial recognition technology will be disempowered, silenced, or cease to exist.”10

Luke Stark at the University of Western Ontario essentially concurs, describing facial recognition as the “plutonium of AI,” and calling for “controls so strict” as to effectively ban the technology. “It’s dangerous, racializing, and has few legitimate uses,” he maintains. And in his view, this will never change, no matter how accurate it becomes.11

Growing numbers of civil society organizations agree, as interviews with anti-FRT campaigners in December 2021 and January 2022 confirm. Civil society organizations in Europe and North America are some of the most critical. “Face recognition surveillance presents an unprecedented threat to our privacy and civil liberties,” the ACLU is arguing as it supports campaigns for local bans across the United States.12 “Law enforcement use of face recognition technology poses a profound threat to personal privacy, political and religious expression, and the fundamental freedom to go about our lives without having our movements and associations covertly monitored and analyzed,” the Electronic Frontier
The movement to oppose facial recognition Foundation is telling its base of supporters.13 “We need to reinvest our resources and priorities into meeting the needs of our community, and not invest in dangerous surveillance tools like facial recognition,” argues Myaisha Hayes at MediaJustice in Oakland, California.14 The “technology is riddled with racial and gender bias,” argues Ibrahim Hooper, the communications director for the Council on American–Islamic Relations, “and it should not be used by any government agency to target marginalized communities.”15 Scores of other US-based NGOs are also chiming in to call for a ban on face surveillance technology. “The use of face surveillance technology needs to end. Face surveillance violates Americans’ right to privacy, treats all individuals as suspicious, and threatens First Amendment-protected rights,” argues Caitriona Fitzgerald of the Electronic Privacy Information Center in Washington, DC.16 Not only do we need “a total ban on the use, development, production, and sale of facial recognition technology for mass surveillance purposes by the police and other government agencies in the United States,” Amnesty International USA is telling its base, we need “a ban on exports of the technology systems to other countries.”17 Civil liberties, social justice, and civil rights groups across Canada have taken a comparable stance. Coordinated by the International Civil Liberties Monitoring Group, in 2020 a coalition of more than 30 groups signed an open letter to the Canadian Minister of Public Safety and Emergency Preparedness calling on the federal government to ban the use of the technology by the Royal Canadian Mounted Police (RCMP) and national intelligence agencies. “Facial recognition technology is highly problematic, given its lack of accuracy and invasive nature, and poses a threat to the fundamental rights of people in Canada,” the letter states.18 Liberty, the United Kingdom’s oldest civil liberties and human rights organization (founded in 1934), takes a similar position. Facial recognition technology “breaches everyone’s human rights, discriminates against people of colour and is unlawful. It’s time to ban it,” Liberty argues.19 Fight for the Future – an internet-based team advocating for responsible, open, and fair use of technology – agrees. “This inherently oppressive technology cannot be reformed or regulated,” argues Evan Greer, the director of Fight for the Future. “It poses such a threat to the future of human society that any potential benefits are outweighed by the inevitable harms. It should be abolished.”20
In 2019, Fight for the Future launched a campaign to “Ban Facial Recognition” in the United States. Today, the campaign comprises 41 groups, ranging from OpenMedia to the ACLU of New York to the Electronic Privacy Information Center to Greenpeace USA to the Council on American–Islamic Relations to the Black Alliance for Just Immigration. Those backing this campaign see the calls for state regulation and corporate self-governance as a ruse, designed to create false trust, deflect critics, and ultimately normalize a racist, biased technology for nefarious uses.

“Silicon Valley lobbyists are disingenuously calling for light ‘regulation’ of facial recognition so they can continue to profit by rapidly spreading this surveillance dragnet,” the campaign to Ban Facial Recognition is telling the public. “They’re trying to avoid the real debate: whether technology this dangerous should even exist. Industry-friendly and government-friendly oversight will not fix the dangers inherent in law enforcement’s use of facial recognition: we need an all-out ban.”21

A global coalition of digital rights and human rights similarly drafted an open statement in 2021 calling for a “global” ban on the use of remote biometric technologies in public spaces, including facial recognition technology. “We call for a ban because, even though a moratorium could put a temporary stop to the development and use of these technologies, and buy time to gather evidence and organize democratic discussion, it is already clear that these investigations and discussions will only further demonstrate that the use of these technologies in publicly accessible spaces is incompatible with our human rights and civil liberties and must be banned outright and for good.”22

Access Now, a digital rights organization with teams across 13 countries and legal registrations in the United States, Belgium, Costa Rica, and Tunisia, has taken a leading role in coordinating this campaign. Five organizations joined Access Now in drafting the statement: Amnesty International, the European Digital Rights (EDRi) network, Human Rights Watch, India’s Internet Freedom Foundation (IFF), and Instituto Brasileiro de Defesa do Consumidor (IDEC, or the Brazilian Institute for Consumer Protection). Within a month of its release, 174 civil society organizations from around the world had signed the statement. By 2022, the number of signatories had reached 193.23
CALLS FOR GUIDELINES AND GUARDRAILS

Others, though, do not think a permanent ban or heavy-handed controls, even for policing and intelligence work, are necessary or helpful. “Rather than setting down roadblocks to further innovation and use, we need guardrails to ensure the public and private sectors use the technology safely and responsibly,” argues Daniel Castro, a vice-president at the Information Technology and Innovation Foundation, a nonprofit think tank specializing in technology policy. What is necessary in the case of the European Union, Guillermo Beltrá at the Open Society European Policy Institute similarly argues, is the creation of “a sensible, legal, enforcement framework to govern” facial recognition technology.

Some want crime and anti-terrorism investigators to be able to use facial recognition software and surveillance when there is probable cause. Others are calling for a gamut of new regulations to ensure the technology is deployed responsibly.

Specific proposals on how to best govern FRT vary widely. Some of those calling for regulation want a specific ban on the use of the technology for general state surveillance of public spaces. Others are only pressing for a total ban on live facial recognition. Still others are additionally urging a ban on the use of facial analysis technology to infer emotions, predict behavior, and profile populations, arguing it is discriminatory and dangerously unreliable. Some distinguish between different uses of facial recognition technology, arguing identification for policing requires an especially stringent regulatory framework, while authentication for border crossings, online transactions, and retailing requires fewer legislative controls, as such uses pose fewer risks.

Some proposals focus more on the need to protect personal privacy, advocating for stricter laws for collecting, deleting, retaining, and sharing information by government agencies and private businesses. Some focus on the importance of high security standards to prevent hacking. Some are proposing limits on the building and searching of faceprint databases. Some are calling for transparency, reliability audits, and accountability, including independent, third-party testing for bias. And some are demanding citizen rights to access and correct faceprint databases. A few proposals are going further still, calling on governments to make the sellers of facial recognition technology legally responsible for ensuring their customers use the technology appropriately.
The alliances within and across transnational, national, and local coalitions vary widely, too. Those calling for bans tend to comprise like-minded organizations broadly advocating for civil liberties, human rights, privacy rights, and civil rights. Those calling for regulation sometimes include these same groups, but also may include industry associations, innovation and technology institutes, religious groups, and corporations. In 2020, for instance, the Vatican, with an endorsement from IBM and Microsoft, issued “a Rome Call for AI Ethics,” which declares: “New forms of regulation must be encouraged to promote transparency and compliance with ethical principles, especially for advanced technologies that have a higher risk of impacting human rights, such as facial recognition.”

Microsoft is lobbying hard for industry-friendly regulations (and opposing outright bans) on FRT, and has aligned itself with a wide range of organizations advocating for regulated use. “This is young technology,” said Brad Smith, the president of Microsoft. “It will get better. But the only way to make it better is actually to continue developing it. And the only way to continue developing it actually is to have more people using it.”

This requires thoughtful regulation, not bans, Smith is arguing. Within the United States, he is calling on all levels of government to regulate the technology to protect privacy, avoid prejudicial uses, restrict face surveillance, and prevent a corporate race to the bottom. “We believe that the only way to protect against this race to the bottom is to build a floor of responsibility that supports healthy market competition,” Smith wrote on the official Microsoft blog. Along the lines of how governments are regulating airlines and automakers, Smith has called on American lawmakers to regulate FRT following six core principles: “accountability,” “notice and consent,” “non-discrimination,” “transparency,” “fairness,” and “lawful surveillance.”

COOPERATION AND STRONG MESSAGING

The efforts of companies such as Microsoft to lobby for industry-friendly regulation and seek out allies within government and civil society, however, are doing little to quiet the growing calls for comprehensive, permanent bans on using FRT for policing and surveillance. Nor are these efforts calming the growing backlash against the use of FRT for evaluating emotions, predicting behavior, and profiling sexual orientation, gender, and political orientation, among other traits. Indeed, as
The movement to oppose facial recognition interviews in 2021 and 2022 with anti-FRT campaigners brought to light, civil society support for time-limited moratoriums – to allow lawmakers to put in place regulatory guardrails – appears to be declining as growing numbers of activists conclude that guardrails will never suffice, as the risks of abuse are too high and the dangers of reinforcing over-policing, systemic racism, stereotyping, and unnecessary surveillance are too great. Importantly for understanding the growing power of the anti-FRT movement, this growing consensus on the necessity of outright bans for routine policing, mass surveillance, and discriminatory profiling is further helping promote cooperation, joint campaigning, and the consistency of public messaging.33

Differences of opinion and emphasis do continue to exist, as is always the case for any diverse and dynamic social movement. As mentioned, some activists are primarily concerned about the use of FRT for policing and mass surveillance, especially live street surveillance; others are just as concerned about the growing use by schools, stores, private businesses, and online platforms, including for both security and facial analysis. Some want blanket, permanent bans on all uses in publicly accessible places. Others see narrow bans on specific uses as the best – or at least the only realistic – way forward. There are varying views, too, on what, if any, exceptions to allow for law enforcement. Some, for instance, support limited, highly regulated use for investigating serious crimes, preventing terrorism, identifying victims of crime, searching for missing children, and identifying pedophiles from online images.34

To overcome differences of opinion, some anti-FRT coalitions are continuing to call for a “moratorium,” without specifying whether the long-term goal is a permanent ban or regulated usage. This allows some groups to support the moratorium as a step toward implementing judicious safeguards, some to back it as a first step toward imposing very strict legal rules for policing, surveillance, and profiling, and some to support it as a step toward imposing a total or near-total ban on the development and use of all facial recognition technology.

Typical of the language used to build consensus, for instance, in 2019 more than 60 civil society groups – with ACLU leading the way – called upon the US federal government to impose a “moratorium on face recognition for law enforcement and immigration enforcement purposes until Congress fully debates what, if any, uses should be permitted.”35 That year, too, civil society organizations from around the world came together in Tirana, Albania, to pen a “declaration” calling for a worldwide “moratorium on the use of facial recognition technology that
enables mass surveillance," and urging governments everywhere “to establish the legal rules, technical standards, and ethical guidelines necessary to safeguard fundamental rights and comply with legal obligations before further deployment of this technology occurs.” Revealingly, the Electronic Privacy Information Center and the Public Voice coalition, which organized the signing of the Albania Declaration, are also running a parallel campaign calling for a “moratorium” on the use of FRT for surveillance, which they call “Ban Face Surveillance.”

Ambiguity in the meaning of “moratorium” and “ban” – with the terms sometimes used interchangeably – has helped maintain high levels of cooperation among those campaigning to rein in facial recognition technology. Certainly, the behind-the-scenes politics can still be contentious within the movement – for instance, when those advocating for regulatory guardrails align themselves with firms lobbying for industry-friendly legislation. Overall, though, the movement is highly cooperative, with a growing and increasingly diverse base of well-established civil society organizations, and a solidifying consensus on the necessity of comprehensive, permanent bans on the use of FRT for routine policing, mass surveillance, and discriminatory profiling. Its global reach, however, remains highly uneven, with the unevenness increasing in recent years.

UNEVEN GLOBAL RESISTANCE

The anti-FRT movement is strongest in democracies that prioritize individual liberty and freedoms. Local resistance has been particularly intense in the United States, where the motto of New Hampshire is “live free or die,” the motto of Delaware is “liberty and independence,” and the motto of Iowa is “our liberties we prize and our rights we will maintain.” The movement is weaker in democratic political cultures, such as in East and Southeast Asia, where more weight is given to community rights, social stability, and filial piety. And the movement is hardly visible at all in highly repressive regimes. Looking geographically, the associational layer resisting facial recognition technology is thickest over North America and Europe, and relatively thin over Asia, Africa, and Latin America.

We can see this when looking at the 2019 Albania Declaration calling for a worldwide moratorium on face surveillance. Of the 112 signatories, nearly one-third are headquartered in the United States, while 10 percent are based in the United Kingdom. Relatively few organizations, meanwhile, are from the developing world. No organization signed from
China. Fourteen organizations did sign from Latin America; but, only eight signed from the Asia-Pacific region (Fiji, Kazakhstan, South Korea, Taiwan, two from Pakistan, and two from Australia) and just three from Africa (Côte d’Ivoire, Uganda, and South Africa).39

Since 2019, resistance has been growing in some developing countries, such as India.40 And the overall reach of the anti-FRT movement into the developing world does appear to be slowly increasing.41 Indicative, more than 40 percent of civil society organizations signing a 2021 open letter calling for a worldwide ban on biometric surveillance were located in developing countries in Asia, Africa, and Latin America.42

Still, the vast majority of developing-country organizations signing such open letters are merely expressing support, and organizations headquartered in Europe and North America are far more active and influential within the overall anti-FRT movement. Adding further to the movement’s uneven influence, those organizations working to diffuse the anti-FRT norm are navigating markedly different local and national political settings. There are large numbers of local groups advocating for civil rights and civil liberties in cities such as San Francisco, and these groups can form powerful lobbying and voting blocs. In jurisdictions such as the European Union, too, there are large numbers of well-established civil society organizations advocating for human rights, privacy, digital rights, civil liberties, and civil rights.

Across the emerging and developing economies of Asia, Africa, and Latin America, meanwhile, relatively few local groups are actively and regularly participating in the transnational social movement opposing facial recognition technology. Many regions do not have civil rights, human rights, or civil liberties organizations strong enough to wage local action. And, in many places with a capacity to do so, states are suppressing voices of dissent.

This great variety of civic politics, along with the far deeper associational layers of anti-FRT resistance across Europe and North America, helps explain why, as we’ll see over the rest of this book, there is very strong opposition and legal bans in some places and little to no opposition or regulatory controls in most of the world. The strongest resistance, as the next chapter discusses, has been in the United States.