



IBAHRI Freedom of Expression Bulletin

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Message from Professor Dario Milo, member of the High-Level Panel of Legal Experts on Media Freedom¹:

‘It is now becoming obvious that many states have found in the Covid-19 pandemic an extraordinary opportunity to test and experiment various types of technological advancements². The invisible and highly infectious scourge has provided the perfect excuse for some states keen on tracking the speech and movements of their citizens. Thus, an increasing number of states has been seeking to closely monitor and control their citizens via their phones, their internet connection, and their digital life.

From contact tracing apps for smartphones in India or Kyrgyzstan to bulk personal data collection in Hungary or extensive social media policing in the Maghreb, this issue of the Freedom of Expression Bulletin particularly highlights some of the implications that technological progress may have on our fundamental rights.

It is crucial to monitor the developments of such policies as it is very likely that these types of invasive tools which can be used to repress will only grow more efficient with time, and thus may become more appealing to states, both authoritarian and democratic. Therefore, it is important to develop our understanding of these technologies early on in order to promote their regulation and their reasonable use by state actors. It is important that all such use be compliant with international law, particularly in regard to freedom of expression and privacy.’

¹ The International Bar Association’s Human Rights Institute serves as Secretariat to the Panel.

² IBA Article, Covid-19: attempts to curb ‘disinfectomic’ run risk of curtailing freedom of expression, 18/05/20
www.ibanet.org/Article/NewDetail.aspx?ArticleUid=AB409845-E52D-4E01-91EB-2162EBB6E6CF

1. National security and emergency measures

Since the outset of the Covid-19 pandemic, several states have chosen to resort to emergency measures to allow for the issuing of new extraordinary measures. Although a state of emergency may be justified in the context of a pandemic, it is risky to extend a government's powers beyond the constitutional standard, as it becomes difficult to review all measures taken and to ensure that the government relinquishes its newly-extended powers at the end of the crisis.

2. Privacy and surveillance

As the spread of the virus relies heavily on the public's behaviour and on how well informed people are regarding the virus' transmission and its effects, some states have taken it into their hands to monitor and closely control people's movements, even at the cost of their privacy. Many states have demonstrated how technological surveillance is being used in this context and also how worrying such measures are when they are not strictly defined and limited.

3. Safety of journalists

During this pandemic, the personal safety of journalists and media workers, especially those reporting from the frontlines of this global crisis with accurate and reliable information for the public, is paramount. There are very real concerns about the physical safety of journalists, and the considerable psychological stress of reporting on the outbreak.³ Across the globe, we are seeing journalists being threatened and punished for speaking out about the extent of the situation in their countries.

4. Free speech

Some countries have sought to restrain freedom of speech, as they consider that alternative reporting on the current state of affairs constitutes a counter-productive discourse, and is therefore an obstacle in their response to the crisis. This is a worrying trend that could result in a detrimental unawareness of the real implications of the pandemic. By silencing non-official voices, states not only hinder the global response to the virus, but also sap democratic stability by favouring opacity over transparency.

5. Digital rights and internet shutdowns

It is clear that the internet has played a key role in fighting the spread of coronavirus, as it facilitates the exchange of information about the virus around the globe as well as the international coordination of efforts against the virus. Consequently, restricting access to the internet in general, or to certain websites such as social media platforms, participates in obscuring the reality of this global pandemic, which is tantamount to preventing the public from accessing relevant scientific facts.

³ UNESCO stresses importance of safety of journalists amid COVID-19 pandemic, 27 March 2020
<https://en.unesco.org/news/unesco-stresses-importance-safety-journalists-amid-covid-19-pandemic>

1. National security and emergency measures

A state of emergency usually involves a devolution of power to the executive organs of the state, with little or no legislative review, as justified by the urgency of the situation. It enables a government to take measures, which, for a limited amount of time, may restrain individual liberties or hinder government accountability in order for it to swiftly and adequately respond to a crisis. A state of emergency is an extraordinary status as it allows the state to interfere with individual rights, and there is always the risk that a state may take advantage of this and use its extended powers for purposes less commendable than that of containing the virus.

Egypt

On 22 April 2020, the Parliament approved amendments to the 1958 Emergency Law, which President Al-Sisi ratified on 8 May.⁴ These amendments give additional powers to the Egyptian President and the country's security agencies. Authorities have justified this extension of the executive's powers by referring to the public health emergencies sparked by the new coronavirus outbreak. However, by modifying the Emergency Law, authorities have ensured the new powers will be available whenever a state of emergency is declared, even when it is unrelated to a public health emergency.⁵

The new amendments grant President Al-Sisi new powers to postpone taxes and utility payments, to suspend schools, universities and restrict public gatherings, celebrations and demonstrations; and to choose and appoint the military prosecution to investigate crimes, in order to 'preserve security and public order'. President Al-Sisi already had exceptional powers to monitor media and communications, expropriate property, try suspects in exceptional trials and impose curfews.⁶

The IBAHRI is concerned that such extraordinary measures have become the standard way to respond to crises. These amendments towards a broad and open-ended state of emergency are especially worrying in a country that has frequently and consistently had recourse to its emergency legislation. The IBAHRI wishes to reiterate that, as provided by Article 51 of the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, the 'severity, duration, and geographic scope of any derogation measure shall be such only as are strictly necessary to deal with the threat to the life of the nation and are proportionate to its nature and extent'.⁷

Myanmar

⁴ Middle East Eye, 'Coronavirus in Egypt: Sisi signs off new emergency powers for security forces', 8 May 2020 www.middleeasteye.net/news/coronavirus-egypt-emergency-law-sisi-army-new-powers

⁵ Human Rights Watch (HRW), 'Egypt: Covid-19 Cover for New Repressive Powers', 7 May 2020 www.hrw.org/news/2020/05/07/egypt-covid-19-cover-new-repressive-powers

⁶ Middle East Monitor, 'Egypt's Emergency Law amendments expand Sisi's powers', 24 April 2020 www.middleeastmonitor.com/20200424-egypts-emergency-law-amendments-expand-sisis-powers

⁷ Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights www.uio.no/studier/emner/jus/humanrights/HUMR5503/h09/undervisningsmateriale/SiracusaPrinciples.pdf

The IBAHRI joins organisations including Article 19 and IFEX in warning against the draft Prevention and Control of Communicable Diseases Bill which provides for criminal penalties for those who spread information about communicable diseases that could cause ‘public panic’ in Myanmar. In Section 20 of the draft Bill, powers are granted to the Ministry of Health to delegate authority to local officials to prohibit speaking, writing, receiving or publishing news on contagious and communicable diseases that could ‘cause panic’⁸. First time violators could be fined up to K100,000 (US\$69), while repeat offenders could be sentenced to six months in jail and/or fined up to K500,000⁹.

Access to information is a particular concern in Myanmar and although this draft Bill (which would seek to replace the 1995 version of the Bill) was originally put before the public and in state newspapers for feedback in February 2020¹⁰, the growing Covid-19 crisis should impact the contents of the Bill. Article 19 noted that the Myanmar government has not provided further information on when Parliament will consider the Bill. However, the next Parliamentary session is scheduled to begin on 18 May 2020. It has also been reported that in recent weeks, the Myanmar Government has taken action to restrict access to information including directing all telecommunications operators to block several ethnic news websites, purportedly on the basis that they spread ‘fake news’ related to the virus¹¹ as well as recently requiring all mobile phone users to re-register their SIM cards, potentially preventing those who lack identity documents from accessing the internet.¹² The IBAHRI calls on the government of Myanmar to proceed with caution at this time of crisis when access to scientific, fact-checked information and independent, trusted media sources is more important than ever and not to adopt measures that fall outside of the legal standard.

⁸ ARTICLE 19, ‘Myanmar: Restriction on expression in communicable diseases bill would undermine COVID-19 response’, 12 May 2020 www.article19.org/resources/myanmar-restriction-on-expression-in-communicable-diseases-bill-would-undermine-covid-19-response

⁹ Myanmar Times, ‘Bill seeks to control news of outbreaks in Myanmar’, 24 February 2020 www.mmtimes.com/news/bill-seeks-control-news-outbreaks.html

¹⁰ Myanmar Times, n.7

¹¹ ARTICLE 19, ‘Myanmar: Immediately lift ban on ethnic news websites’, 1 April 2020 www.article19.org/resources/myanmar-immediately-lift-ban-on-ethnic-news-websites

¹² Myanmar Times, ‘Millions in Myanmar risk having mobile phones cut off after SIM registration deadline’, 29 April 2020 www.mmtimes.com/news/millions-myanmar-risk-having-mobile-phones-cut-after-sim-registration-deadline.html

2. Privacy and surveillance

Certain states have opted to track down individuals' movements by using their mobile phone data with little, if any, regard for their privacy. Although this sort of measure may be supported in the midst of a pandemic that is lethal for a significant proportion of the population, such technological prowess should be watched attentively, as it is evident that it could be used to serve other purposes.

Contact tracing apps are reported to be in operation in China, Czech Republic, Ghana, Hong Kong, Iceland, India, North Macedonia, Poland, Singapore and South Korea. The IBAHRI, along with many global privacy campaigners, activists and lawyers, is concerned about the implications of mass surveillance through these apps. Particularly whether the current Covid-19 pandemic is being used as a 'Trojan horse' to build a surveillance infrastructure that will long continue after the health threat has passed, or one that is largely dependent on political will to have conditions reviewed and revoked. In April 2020, Amnesty International, along with 100 other organisations, issued a statement calling for limits on this kind of surveillance.¹³ The statement requests that states interested in Covid-19 containment projects comply with eight conditions endorsed by the IBAHRI:

- 1) Surveillance must be 'lawful, necessary and proportionate'.
- 2) Extensions of monitoring and surveillance must have sunset clauses.
- 3) The use of data would have to be limited to Covid-19 purposes.
- 4) Data security and anonymity would have to be protected and shown to be protected based on evidence.
- 5) Digital surveillance would have to avoid exacerbating discrimination and marginalisation.
- 6) Any sharing of data with third-parties would have to be defined in law.
- 7) There must be safeguards against abuse and procedures in place to protect the rights of citizens to respond to abuses.
- 8) 'Meaningful participation' by all 'relevant stakeholders' would be required, including public health experts and marginalised groups.

Kyrgyzstan

A new smartphone app developed by Kyrgyzstan is fuelling concerns of privacy advocates. The application is voluntary, although reports alleged some people may have been pressured into downloading it on their phones.¹⁴

Kyrgyz authorities have said that the app, named STOP COVID-19, only processes confidential information used strictly for the purpose of monitoring the spread of Covid-19, and with access limited to a restricted circle of state bodies charged with preventing and eliminating emergency situations. However, video footage emerged online showing an unidentified individual accessing the app

¹³ Joint civil society statement: States use of digital surveillance technologies to fight pandemic must respect human rights (PDF), Amnesty International, 2 April 2020 www.amnesty.org/download/Documents/POL3020812020ENGLISH.pdf

¹⁴ Eurasianet, 'Kyrgyzstan's coronavirus tracking app alarms privacy advocates', 8 May 2020 <https://eurasianet.org/kyrgyzstans-coronavirus-tracking-app-alarms-privacy-advocates>

dashboard and exposing personal details of one user.¹⁵ Judging from the video, the personal data stored in the app is extensive and comprises at least the user's name, passport details, phone number and social security details. Observers concluded that the author of the video probably has authorised access, but there are uncertainties relating to the designation of exactly which government bodies will be controlling the data and monitoring citizens.

Although this current app is but a forerunner of upcoming, more developed software that will be handed to the Health Ministry once completed, it highlights the failure of the Kyrgyz technological response to Covid-19 to guarantee an effective protection of users' personal data. The IBAHRI urges Kyrgyz authorities to respect the right to privacy, and to, when strictly necessary, balance this right with public health imperatives in conformity with the criteria of legality and proportionality.

India

In previous issues, the IBAHRI has reported concerns regarding the Aarogya Setu app, which uses GPS and Bluetooth signals on smartphones to record when people come in close contact with one another, so that contacts can be quickly alerted when a person tests positive for the virus. Authorities have been allowed to upload the collected information on the app to a government-owned and operated 'server', which will 'provide data to persons carrying out medical and administrative interventions necessary in relation to Covid-19'.¹⁶ Almost 100 million Indians have now downloaded the Aarogya Setu app. The app is now mandatory for all government staff and all employees returning to work in the public and private sector.¹⁷ In the city of Noida, citizens reportedly face up to six months in prison or a ₹1,000 fine if they do not download Aarogya Setu.¹⁸

The Internet Freedom Foundation has raised concerns over initiatives that drive India towards becoming a surveillance state and how storage policies for the app are highly deficient and cannot be aligned with people's right to privacy, or the proportionality principle.¹⁹ Commenting on the app, B.N. Srikrishna, a former Supreme Court judge, who led an effort to draft India's first data privacy law, stated, 'The government is virtually forcing you and taking your data without consent... Once your fundamental rights are being breached left and right, without anybody to question you, and if the courts are not going to help you, you're even worse than China'.²⁰

¹⁵ Новости Кыргызстана Kloop.kg, 'Схема работы госприложения STOP COVID-19', (Youtube, 28 April 2020) www.youtube.com/watch?v=DvzK_DWA6zU

¹⁶ BBC News, 'Aarogya Setu: Why India's Covid-19 contact tracing app is controversial', 15 May 2020 www.bbc.co.uk/news/world-asia-india-52659520

¹⁷ Directive No.40-3/2020-DM-I(A), Government of India, Ministry of Home Affairs, 1 May 2020 https://drive.google.com/file/d/1wXzfI9uPv0Qr4YZBKXwk_1Z1M2skYfzl/view

¹⁸ NewsMeter, "'Open Source Aarogya Setu app": French hacker debunks security theory, calls it surveillance system', 9 May 2020 <https://newsmeter.in/aarogya-setu-app-french-hacker-debunks-security-theory-calls-it-surveillance-system>

¹⁹ Internet Freedom Foundation, 'We Studied the Protocol: And No This Doesn't Sufficiently Protect Your Privacy', 13 May 2020 <https://internetfreedom.in/we-studied-the-protocol-and-no-this-doesnt-sufficiently-protect-your-privacy>

²⁰ Reuters, 'India follows China's lead to widen use of coronavirus tracing app', 14 May 2020 <https://uk.reuters.com/article/us-health-coronavirus-india-app/india-follows-chinas-lead-to-widen-use-of-coronavirus-tracing-app-idUKKBN22Q110>

On 12 May 2020, the Kerala High Court requested a statement from authorities regarding the Aarogya Setu mobile application. The court asked the Centre on the data privacy safeguards of the Aarogya Setu application to what extent the information collected could be misused. This request follows a public interest litigation challenging the Ministry of Home Affairs directive, which made Aarogya Setu mandatory for public and private employees.²¹

New Delhi has alleged the app will not infringe privacy as data is collected anonymously, but activists have criticised the measure as a violation of the principle of consent.²² Further, a French cyber security expert and 'ethical hacker' has denounced the app as a surveillance tool. The expert demonstrated how easy it was to hack the app to have it reveal information in any area, with any radius, including the number of infected people in the area, the number of unwell people, the number of people declared as 'Bluetooth positive', the number of self-assessments made in the area, and the number of people using the app.²³ Thanks to triangulation, any hacker could find the health status of a specific individual. This not only highlights a certain recklessness in the design and dissemination of the application, but also the wide scope of the data collected by Aarogya Setu.

The IBAHRI urges governments, including Indian authorities, to be transparent about the purposes of data collection, to ensure that data is encrypted and only used for the purposes stated, applying sunset clauses and strict time limits on data being collected, and the duration for which it can be held. We stand with recommendations made by the IFF including asking states to take measures that are necessary to ensure people's privacy is not compromised after the initial purpose of any legitimate app has lapsed²⁴.

Israel

The Israeli Supreme Court held on 26 April that the Shin Bet's electronic contact tracing of Covid-19 patients could not continue without appropriate statutory authorisation, stating that a 'suitable alternative, compatible with the principles of privacy, must be found'.

A parliamentary committee has extended the surveillance regime for an additional three weeks, until 26 May 2020.²⁵ Meanwhile, Prime Minister Benjamin Netanyahu is now seeking to present a draft bill to Parliament within two weeks, aiming to regulate the use of Shin Bet's electronic surveillance

²¹ Bangalore Mirror, 'Kerala High Court seeks response from Centre on data privacy safeguards of Aarogya Setu App', 12 May 2020 <https://bangaloremirror.indiatimes.com/news/india/kerala-high-court-seeks-response-from-centre-on-data-privacy-safeguards-of-aarogya-setu-app/articleshow/75693439.cms>

²² Reuters, 'Indian court seeks government reply over challenge to mandatory coronavirus app', 8 May 2020 <https://uk.reuters.com/article/us-health-coronavirus-india-app/indian-court-seeks-government-reply-over-challenge-to-mandatory-coronavirus-app-idUKKBN22K1GG>

²³ Elliot Alderson, 'Aarogya Setu: The story of a failure' (*Medium*, 6 May 2020) <https://medium.com/@fs0c131y/aarogya-setu-the-story-of-a-failure-3a190a18e34>

²⁴ "Summary and Analysis of 'Aarogya Setu Data Access and Knowledge Sharing Protocol, 2020'" <https://drive.google.com/file/d/1CsDRIMDvqAH1Dq2xU5nP7GxdnDPIKhWp/view?usp=sharing>

²⁵ Middle East Eye, 'Coronavirus: Israel approves extension of Shin Bet surveillance powers', 5 May 2020 www.middleeasteye.net/news/coronavirus-israel-shin-bet-surveillance-extension-approved

system.²⁶ Proponents of the bill argue that this surveillance is especially important now as lockdown restrictions are being loosened.

The IBAHRI remains concerned over Israel's apparently systematic recourse to a set of excessively invasive surveillance measures to curb the spread of the virus.

United Kingdom

On 5 May 2020, the government of the United Kingdom began trialling their NHS Covid-19 contact tracing app on the Isle of Wight. To date, the app has been voluntarily downloaded around 55,000 times.²⁷ If the trial is successful, a nationwide programme will be rolled out to reduce the transmission of the virus and help ease current lockdown measures. The app uses Bluetooth signal to track all phones the device comes into contact with over 28 days. Users self-report to the app if they are suffering from coronavirus symptoms and that data is then shared with a health service database, their anonymous ID is matched with other phones they have come into contact with, and individuals are then sent a notification informing them of this and urging them to self-isolate.²⁸

The app uses a centralised model to store anonymised data, however, within the first week of testing, it has emerged that the UK government may have to move to a decentralised model favoured by Apple and Google, which stores data about movements on a user's phone, rather than centrally in an anonymised form, with the government to ensure functionality of the app moving forward.²⁹ Along with privacy campaigners, the IBAHRI supports a decentralised model as it gives users more control over their information by keeping it on the device.

The IBAHRI urges the UK government to move to a decentralised model, to guarantee the privacy of its citizen's data and potentially enable the app to be interoperable with European apps, which will assist with people moving across borders. While the IBAHRI commends the UK government's endeavours to halt the spread of the virus, we are concerned that governments across the globe are rushing to develop contact tracing apps, often with little regard for privacy and without concrete scientific proof as to their effectiveness.³⁰ Privacy International has undertaken a technical investigation into the UK government's app, which raised three key concerns:

1. There is no mechanism to opt-in or opt-out of third-party trackers, which are included with the app;
2. It seems that the app would only work when it is operating in the foreground, particularly on iOS devices, making its efficacy questionable; and

²⁶ Al-Jazeera, 'Israel extends coronavirus cell phone surveillance by three weeks', 5 May 2020 <https://uk.reuters.com/article/uk-health-coronavirus-israel-surveillance/israel-extends-coronavirus-cell-phone-surveillance-by-three-weeks-idUKKBN22H1RL>

²⁷ BBC, 'Coronavirus: How does contact tracing work and is my data safe?', 12.05.2020 www.bbc.co.uk/news/explainers-52442754

²⁸ The Telegraph, 'NHS contact tracing app: how does it work and when can you download it?', 12.05.2020 www.telegraph.co.uk/technology/2020/05/12/nhs-contact-tracing-app-coronavirus-uk-download/

²⁹ The Guardian, 'UK coronavirus app could be 'ditched for different model' after trials', 10.05.2020 www.theguardian.com/world/2020/may/10/uk-coronavirus-app-could-be-ditched-for-different-model-after-trials

³⁰ WIRED, 'Coronavirus contact tracing apps were meant to save us. They won't', 30.04.2020 www.wired.co.uk/article/contact-tracing-apps-coronavirus

3. The app is incompatible with a range of older Android devices, potentially putting the most vulnerable, such as the elderly or those on low incomes, at risk.³¹

Experts are concerned that in the long term, contact tracing apps may do more harm than good as they potentially open the door for further state surveillance. The IBAHRI is worried that unless governments prioritise the people, minimise the quantity of data collected, and ensure data is encrypted and only used for the purposes stated, many will not consider downloading the app, rendering it ineffective. We therefore urge governments to be transparent with the public about the scope of contact tracing apps, ensure apps are part of a comprehensive healthcare response, confirm that individuals can trust their data and devices are secure, and guarantee apps will be dismantled as soon as they can be.

Northern Ireland

Amnesty International has raised concern as the Executive of Northern Ireland are considering rolling out the NHS Covid-19 contact tracing app. As highlighted in this issue of the bulletin, data collected via the NHS Covid-19 app is stored on a centralised system, which has raised privacy and security concerns. The centralised system is at odds with the decentralised system favoured by European governments, including Ireland. Amnesty International also emphasised that any differences between systems operating in Northern Ireland and the Republic of Ireland could create problems in limiting the spread of Covid-19.³²

The IBAHRI stresses concern that the UK government's centralised app could open the door for further state surveillance and infringements on privacy rights. We are further troubled that the roll out of the UK government's app in Northern Ireland will be ineffective in the fight against the virus if residents are required to download two apps to enable them to travel safely across the border between the UK and Ireland. The IBAHRI joins Amnesty International and other organisations in urging the Executive of Northern Ireland to carefully consider these key concerns before adopting the NHS Covid-19 app and to ensure transparent decision making in order to safeguard public trust, which is key in ensuring the effectiveness of contact tracing apps.

³¹ Privacy International, 'UK government Covid tracking app: what we found', 07.05.2020
<https://privacyinternational.org/long-read/3752/coronavirus-tracking-uk-what-we-know-so-far>

³² Amnesty International, 'Northern Ireland: Contact tracing app privacy and cross-border concerns raised with Executive' 11.05.2020, www.amnesty.org.uk/press-releases/northern-ireland-contact-tracing-app-privacy-and-cross-border-concerns-raised

3. Safety of journalists

The independence and safety of journalists is a crucial factor of transparency and accountability, and, therefore, a vital component of democracy. As a result, any attempt by a state against the integrity, the livelihood or the safety of journalists is fundamentally anti-democratic. In addition, the current state of the pandemic has made the work of journalists even more crucial, as the exchange of information relating to the virus and our consequent increased knowledge of its characteristics and impact will eventually contribute to the outcome of this crisis. However, a trend of grave concern to the IBAHRI is how many governments across the world are adopting legislation that clearly risks impeding the work of journalists and the media, therefore restricting the public's right to receive accurate and reliable information at this unprecedented time. Problematically, many laws also carry heavy fines and criminal sanctions, threats of arrest and jail time for those on the frontline simply doing their jobs.

Follow up from the previous issue

The Freedom of Expression Bulletin is committed to monitoring the assaults made against journalists' rights to report on the global Covid-19 pandemic:

- **Pakistan:** The IBAHRI was greatly saddened by the death of Sajid Hussain, a Pakistani journalist exiled in Sweden and Editor-in-Chief of *The Balochistan Times*. In a previous issue of this bulletin, we reported that Hussain had gone missing. His body has since been found in a river 35 miles north of Stockholm on 1 May 2020. The Swedish prosecutor's office has said that the autopsy did not point strongly to foul play.³³ Reporters Without Borders (RSF) has expressed scepticism in a statement on Mr Hussain's death: 'as long as murder cannot be excluded, there is a strong possibility that he was killed in connection with his work as a journalist'.³⁴ Pakistan is one of the most dangerous countries for journalists to work in and threats have known to come from both Pakistani intelligence agencies and its militant groups. Over the last thirty years, there are over sixty documented deaths of journalists in direct relation to their work.³⁵ The IBAHRI implores the Swedish Government to conduct a thorough and conclusive investigation into the death of their citizen-through-asylum. Our thoughts are with Mr Hussain's family and friends at this incredibly difficult time.
- **Mexico:** The murderers of the internationally renowned Mexican journalist Maria Elena Ferral Hernández remain at large with impunity. An inquiry into her death is vital if Mexico is to

³³ The New York Times, 'Exiled Pakistani Journalist Found Dead in Sweden', 2 May 2020

www.nytimes.com/2020/05/02/world/asia/pakistan-journalist-dead.html?campaign_id=51&emc=edit_MBE_p_20200504&instance_id=18199&nl=morning-briefing®i_id=111398989§ion=whatElse&segment_id=26545&te=1&user_id=c8c5a91a58f0584b6234b3c0ceb3ce8b

³⁴ RSF, 'Missing Pakistani journalist's body found in Sweden', 5 May 2020 <https://rsf.org/en/news/missing-pakistani-journalists-body-found-sweden>

³⁵ CPJ, '61 Journalists Killed in Pakistan'

https://cpj.org/data/killed/?status=Killed&motiveConfirmed%5B%5D=Confirmed&type%5B%5D=Journalist&cc_fips%5B%5D=PK&start_year=1992&end_year=2020&group_by=year

reverse its reputation as one of the worst countries for journalists to work in.³⁶ Ferral had been receiving death threats and notes of intimidation from local political candidates since 2016.³⁷ Determined to continue her work, the 50-year-old journalist sought protection from the State Commission for Protecting Journalists and was assigned bodyguards. The Government later withdrew this security, but Ferral refused to let this silence her.³⁸ Ferral became the second female journalist to be shot in Mexico this year. Teresa Aracely Alcocer, radio journalist, was shot dead in February outside her home in Ciudad Juárez.³⁹ Her killers are also yet to be brought to justice. The level of impunity for the murderers of journalists in Mexico is over 97 per cent.⁴⁰ The IBAHRI implores the Mexican authorities to take action on this matter and end the cycle of impunity that fuels a culture of violence towards journalists, and will continue to monitor this situation.

- The Deutsche Welle Freedom of Speech Award distinguishes those who have shown outstanding commitment to human rights and freedom of expression in the media. This year awards have been given to Ana Lalic (**Serbia**), Elena Milashina (**Russia**), Darvinson Rojas (**Venezuela**), Mohammed Mosaed (**Iran**) and Siddharth Varadarajan (**India**), among others, all of whom have been mentioned in previous bulletins. IBAHRI has been monitoring each of these journalists' situations since their troubles began. Lalic still faces charges of spreading panic, which can bring up to five years in prison.⁴¹ On 15 April, Milashina's reports were retracted by *Novaya Gazeta*, her paper, on instruction from Roskomnadzor, the Russian Federal Service for Supervision of Communications.⁴² The IBAHRI condemns the Russian authorities' display of support for the abominable behaviour of Chechen president Ramzan Kadyrov in this matter. Rojas was released after 12 days' incarceration on 3 April pending a criminal investigation.⁴³ Mosaed is still banned from reporting and his Twitter and Telegram

³⁶ RSF, 'Mexico', <https://rsf.org/en/mexico><https://rsf.org/en/mexico>

³⁷ TV5 Monde, 'La journaliste mexicaine Maria Elena Ferral assassinée', 31 March 2020 <https://information.tv5monde.com/terriennes/la-journaliste-mexicaine-maria-elena-ferral-assassinee-353652>

³⁸ The Coalition for Women in Journalism, 'Mexico: Despair reins as journalist Maria Hernández shot dead in broad daylight', 9 April 2020 <https://womeninjournalism.org/cfwij-press-statements/mexico-despair-reins-as-journalist-maria-hernandez-shot-dead-in-broad-daylight>

³⁹ The Coalition for Women in Journalism, 'Mexico: Murder of radio journalist Teresa Aracely puts there targeting of women journalists in the spotlight', 21 February 2020 <https://womeninjournalism.org/cfwij-press-statements/mexico-murder-of-radio-journalist-teresa-aracely-puts-the-targeting-of-women-journalists-in-the-spotlight>

⁴⁰ El Financiero, 'María Elena Ferral', 1 April 2020 www.elfinanciero.com.mx/opinion/javier-risco/maria-elena-ferral

⁴¹ CPJ, 'Serbian reporter Ana Lalić on her arrest and detention over COVID-19 report', 29 April 2020 <https://cpj.org/blog/2020/04/serbian-reporter-ana-lalic-on-her-arrest-and-detention.php>

⁴² European Federation of Journalists, 'Russia: Chechen president threatens journalist Elena Milashina with death', 22 April 2020 <https://europeanjournalists.org/blog/2020/04/22/russia-chechen-president-threatens-journalist-elena-milashina-with-death>

⁴³ Amnesty International, 'Venezuela: Prisoner of conscience remains on trial', 3 April 2020 www.amnesty.org/en/documents/amr53/2096/2020/en

accounts remain suspended.⁴⁴ Any attempt to silence Varadarajan through police summons has failed, and he remains openly critical of India's handling of the pandemic.⁴⁵

Bangladesh

On 6 May 2020, Ahmed Kabir Kishore, cartoonist, Mushtaq Ahmed, writer, Swedish-Bangladeshi journalist Tasneem Khalil of Netra News, US-based journalist Shahed Alam, blogger Asif Mohiuddin and six others have been charged under the Digital Security Act for 'spreading rumours and carrying out anti-government activities' for posts on the I Am Bangladeshi Facebook page and other social media sites. According to the First Information Report (FIR) filed with Ramna Police Station, the 11 are being charged for 'knowingly posting rumours against the father of the nation, the liberation war, and the coronavirus pandemic to negatively affect the nation's image' under Sections 21, 25, 31, and 35 of the Digital Security Act (DSA). Section 21 criminalises 'any propaganda or campaign' against the liberation war, 'the father of the nation, the national anthem, or the national flag' and carries a sentence of up to life imprisonment. Section 25 criminalises publishing 'offensive or fear inducing' information or any content 'tarnishing the image of the nation', carrying a sentence of up to five years in prison. Section 31 criminalises publishing any content that disrupts 'communal harmony' or 'threatens to deteriorate law and order', carrying a punishment of up to ten years⁴⁶. Kishore and Mushtaq have already been jailed.⁴⁷

Police have arrested at least 40 people in recent weeks under the controversial Digital Security Act that activists say is being used to suppress criticism of the government's handling of the contagion⁴⁸. On 7 May 2020, the government issued a circular banning all government employees from posting, 'liking', sharing, or commenting on any content which might 'tarnish the image of the state' or the government's 'important persons', warning that violation of this order would result in legal action. The authorities have also increased surveillance of anyone who might spread 'rumours', and has ramped up media censorship. The IBAHRI condemns the restriction on free expression and censorship of reporting and online content that is critical of the government of Bangladesh, which denies citizens access to critical information on the spread of the virus and undermines public trust in the government.

⁴⁴ INSIDER, 'Iran arrested a journalist who criticised its response to the coronavirus outbreak, and forced him to delete his Twitter and Telegram', 2 April 2020 www.insider.com/iran-arrests-journalist-covonavirus-criticism-questions-data-mohammad-mosaed-2020-4

⁴⁵ Huffington Post, 'Siddharth Varadarajan On Police Summons: Coronavirus Has Deepened The Worst Tendencies Of Indian Governance', 15 April 2020 www.huffingtonpost.in/entry/siddharth-varadarajan-police-coronavirus_in_5e969f88c5b6ead140049377?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlmNvbS8&guce_referrer_sig=AQAAAJbCyeFY-MOyVK6bRAWMDkWjQ4hJ3S2gQvEiFBVLOGFay_hHdQO6SmNLPYA_BmYS5ZsfYO5ZFi_Rjd8htdYwaZATs_m2rDbPL9N1iDAVFFgVb9eDzwrB2AjKMD9Szk2zrXxDTx60w6prSTjksPbYzjJVAgzG4Vy7Uo7GFI5xbXj

⁴⁶ HRW, 'Bangladesh: Mass Arrests Over Cartoons, Posts', 7 May 2020 www.hrw.org/news/2020/05/07/bangladesh-mass-arrests-over-cartoons-posts

⁴⁷ The Daily Star, 'Cartoonist, writer and activist among 4 arrested under digital security act; 11 accused in the case', 6 May 2020 www.thedailystar.net/country/news/cartoonist-writer-arrested-under-digital-security-act-1899973

⁴⁸ Al-Jazeera, 'Bangladesh cartoonist, writer charged for anti-government posts', 7 May 2020 www.aljazeera.com/news/2020/05/bangladesh-cartoonist-writer-charged-anti-government-posts-200507102957266.html

China

Six citizen journalists and activists have been detained through allegedly enforced disappearances in the past three months, leaving their families in the dark as to their safety and whereabouts. The IBAHRI joins a number of human rights organisations around the world in calling for the immediate release of the five that remain in custody.⁴⁹ Under international human rights law, a forced disappearance occurs when government officials take a person into custody and the state refuses to acknowledge the person's fate or whereabouts, placing them outside the protection of the law. On 19 April 2020, Chen Mei, Cai Wei and Wei's partner Tang, were detained by Beijing police on charges of 'picking quarrels and provoking trouble' for posting news articles, interviews and personal accounts relating to coronavirus.⁵⁰ The site they post to, Terminus 2049, is for censored information and reports indicate it has been blocked in mainland China since the three were detained. Mei, Wei and Tang have been placed under 'residential surveillance in a designated location', a phrase used to describe enforced disappearance that means police can hold individuals in undisclosed locations for up to six months.

On 7 February 2020, Chen Qiushi, citizen journalist and lawyer, was detained by authorities in Wuhan having gone to the city to report on the coronavirus situation. On 9 Feb 2020, businessman Fang Bin was taken into custody in Wuhan for posting videos taken in Wuhan hospitals.⁵¹ The two are considered to be forcibly disappeared. Li Zehua, citizen journalist from Wuhan, disappeared on 26 February 2020 having publically broadcast his chase with the police. Li was told he was 'suspected of disturbing public order' during his police interrogation, before being taken into custody to 'quarantine'.⁵² Qiushi, Zehua and Bin have all received the Deutsche Welle Freedom of Speech Award 2020 for outstanding commitment to human rights and freedom of expression in the media.⁵³

On 28 April 2020, three volunteers working for the Endpoint Star media project, which reprints articles that have been published and deleted on social media and the internet, have been arrested by Chinese authorities. The site has recently been republishing information related to the crisis but it has not been made clear whether the arrests relate directly to this.⁵⁴ In April 2020, Reports Without Borders (RSF) published the World Press Freedom Index 2020, listing China 177th out of 180.⁵⁵ The response to journalists reporting on the Covid-19 pandemic demonstrates how China has entrenched practices of intimidation, harassment and surveillance against foreign journalists and their sources.⁵⁶ In previous issues of this Bulletin, the IBAHRI reported on China's expulsion of 13 journalists from *The*

⁴⁹ HRW, "China: Free Covid-19 Activists, 'Citizen Journalists'", 27 April 2020 www.hrw.org/news/2020/04/27/china-free-covid-19-activists-citizen-journalists

⁵⁰ HRW, n49

⁵¹ Quartz, 'Another citizen journalist covering the coronavirus has gone missing in Wuhan', 12 February 2020 <https://qz.com/1801361/wuhan-virus-citizen-journalists-fang-bin-chen-qiushi-go-missing/>

⁵² BBC News, "Li Zehua: Journalist who 'disappeared' after Wuhan chase reappears", 23 April 2020 www.bbc.co.uk/news/world-asia-china-52392762

⁵³ Deutsche Welle, 'Deutsche Welle Freedom of Speech Award: 17 laureates from 14 countries', 3 May 2020 www.dw.com/en/deutsche-welle-freedom-of-speech-award-17-laureates-from-14-countries/a-53306033

⁵⁴ Index on Censorship, 'Disease Control?' www.indexoncensorship.org/disease-control

⁵⁵ RSF, Ranking 2020 <https://rsf.org/en/ranking>

⁵⁶ RSF, 'Harassment of foreign reporters is becoming systematic in China', 4 March 2020 <https://rsf.org/en/news/harassment-foreign-reporters-becoming-systematic-china>

New York Times, *The Washington Post*, and *The Wall Street Journal*, and its embarkment on a global disinformation campaign designed to counter critics who blame its censorship for the scale of the current pandemic.⁵⁷ China remains the biggest jailer of journalists in the world, with 109 currently detained in 2020⁵⁸ and the IBAHRI will continue to closely follow the crackdown in the state.

Iran

On 2 May 2020, a detained predominant Iranian journalist and filmmaker, Mohammad Nourizad attempted suicide by cutting in protest of the horrific conditions for political prisoners at Vakilabad prison in the city of Mashhad. Mohammad Nourizad signed a petition along with fourteen other dissidents in June 2019 demanding the resignation of Iran's Supreme Leader Ayatollah Ali Khamenei to attain 'full transition which would allow the adoption of a new constitution granting equal rights to women'.⁵⁹ The petitioners were all arrested and eight individuals were tried in a court without due process and sentenced to a total of 72 years in prison by a court in Iran's second-largest city, Mashhad, in February⁶⁰. Nourizad reportedly told his lawyer that his decision to commit suicide was 'for the sake of all political prisoners...to highlight the oppression they endure and pressures they are subjected to'.⁶¹

Nourizad's son, Ali Nourizad was arrested for participating in a peaceful protest to commemorate Ukrainian flight crash victims. He was tried by Branch 26 of the Revolutionary Court in Tehran on 28 April 2020 on charges of 'spreading propaganda against the establishment', 'insulting the leadership' and 'colluding with intention to commit crime against the country security'.⁶²

Harassment, threats and the detention of family members of jailed journalists and political and human rights activists is a long established practice by Iranian regime intelligence agencies to pressure and deter Iranians from their right to freedom of expression. The IBAHRI calls on Iranian authorities to release journalists and political prisoners confined in Iranian cells and to cease harassment, detention and reprisal towards family members of activists.

Malaysia

⁵⁷ RSF, 'Beware of China's coronavirus disinformation, RSF says', 18 April 2020 <https://rsf.org/en/news/beware-chinas-coronavirus-disinformation-rsf-says> ; RSF, 'Coronavirus: The information heroes China silenced', 25 March 2020 <https://rsf.org/en/news/coronavirus-information-heroes-china-silenced> ; RSF, "'If the Chinese press were free, the coronavirus might not be a pandemic,' argues RSF", 24 March 2020 <https://rsf.org/en/news/if-chinese-press-were-free-coronavirus-might-not-be-pandemic-argues-rsf>

⁵⁸ RSF, Violations of press freedom barometer <https://rsf.org/en/barometer>

⁵⁹ RadioFreeEurope/RadioLiberty, 'Fourteen Iranian Women's Rights Activists Call On Khamenei To Resign', 6 August 2019 www.rferl.org/a/fourteen-iranian-women-s-rights-activists-call-on-khamenei-to-resign/30095002.html

⁶⁰ Radio Farda, 'Iran Dissident Who Demanded Khamenei's Resignation Attempts Suicide in Jail', 3 May 2020 <https://en.radiofarda.com/a/iran-dissident-who-demanded-khamenei-s-resignation-attempts-suicide-in-jail/30589952.html>

⁶¹ Radio Farda, n.60

⁶² Center for Human Rights in Iran, 'Jailed Activist's Son Threatened with Imprisonment to Silence Dissent', 30 April 2020 www.iranhumanrights.org/2020/04/jailed-activists-son-threatened-with-imprisonment-to-silence-dissent

On 5 February 2020, Wan Noor Hayati Wan Alias, an award-winning journalist, pleaded not guilty to three counts of 'causing public fear and alarm' under section 505(b) of Malaysia's Penal Code, for reporting on the Covid-19 outbreak in Malaysia. The well-documented comments in question include a post warning against the arrival of 1,000 Chinese nationals on a cruise ship in Penang on the 26 January 2020, after the outbreak in Wuhan.⁶³ The Malaysian tourism official, Yeoh Soon Hin, claimed that the tourists from the cruise ship had all been medically examined. Wan Alias was released on bail pending trial.⁶⁴ The IBAHRI shares the concerns of organisations including Women in Journalism that this case will exacerbate existing gender bias in reporting in Malaysia. Wan Alias is the sixth person to have been detained by Malaysian authorities for allegedly sharing false information about the coronavirus on social media since the outbreak began.⁶⁵

Philippines

On 5 May 2020, Cornelio Pepino, known to his listeners as Rex Cornelio, was shot five times at close range while returning home from presenting his program on dyMD Energy FM 93.7. The investigation into his death is exploring the possibility that Pepino's murder was in connection with his journalism.⁶⁶ In his career as an investigative journalist, Pepino had exposed several cases of corruption, bribery, and illegal mining. Pepino's death is no anomaly. Despite the Presidential Task Force on Media Security that has been in place since President Rodrigo Duterte took office in 2016,⁶⁷ sixteen journalists have been killed in connection with their work in the Philippines since Duterte's term began.⁶⁸ The systemic attack against independent journalism goes right to the top of the Duterte administration. On the same day as Pepino's murder, the main TV and radio network, ABS-CBN was ordered to stop broadcasting with immediate effect by the National Telecommunications Commission (NTC).⁶⁹

Ukraine

On 29 April 2020, Bohdan Kutepoc, a reporter for the web TV Hromadske, was assaulted by Ukrainian police while filming an anti-lockdown protest in Kiev. The National Bureau of Investigation (GBR) is

⁶³ The Straits Times, "Malaysian journalist charged over 'fear-inducing' coronavirus social media posts", 5 February 2020 www.straitstimes.com/asia/se-asia/malaysian-journalist-charged-over-fear-inducing-coronavirus-social-media-posts

⁶⁴ The Coalition for Women in Journalism, 'Malaysia: Wan Noor Hayati's use of social media is not a crime', 6 February 2020 <https://womeninjournalism.org/cfwij-press-statements/2020/2/27/malaysia-wan-noor-hayatis-use-of-social-media-is-not-a-crime>

⁶⁵ Euronews, 'Coronavirus: Malaysia arrests five for spreading misinformation online', 30 January 2020 www.euronews.com/2020/01/29/coronavirus-malaysia-arrests-five-for-spreading-misinformation-online-the-cube

⁶⁶ Dajiworld, 'Scribe shot dead in Philippines, 16th since Duterte took office', 6 May 2020 www.dajiworld.com/news/newsDisplay.aspx?newsID=704976

⁶⁷ Rappler, 'PCOO meeting with Reporters Without Borders not so 'fruitful' after all?', 25 February 2020 www.rappler.com/newsbreak/inside-track/252655-reporters-without-borders-meeting-pcoo-martin-andanar

⁶⁸ RSF, 'Philippines: Well-known radio journalist gunned down in Negros Oriental', 6 May 2020 <https://rsf.org/en/news/philippines-well-known-radio-journalist-gunned-down-negros-oriental>

⁶⁹ RSF, 'Biggest Philippine TV and radio network told to stop broadcasting', 5 May 2020 <https://rsf.org/en/news/biggest-philippine-tv-and-radio-network-told-stop-broadcasting>

investigating the incident as an 'abuse of authority' under Article 365-2 of the penal code.⁷⁰ Nevertheless, this is one in many incidences of aggression and intimidation towards the Ukrainian press,⁷¹ and the IBAHRI is ardent that this trend is reversed.

Sweden

On 20 April 2020, Mahmoud Abbas, a Palestinian cartoonist living in Sweden, began receiving death threats for a cartoon he posted on Twitter about the collapse of international oil prices. Twitter users recognised the image to be crown prince Mohammed Bin Salman⁷², who is shown running down a hill with a rolling barrel of oil behind him, perceived to be 'mocking the gulf'.⁷³ Personal information about Abbas and his family and their location has been shared online. The IBAHRI supports the International and European Federation of Journalists (IFJ and EFJ) and the Journalistförbundet of Sweden's (SJF) complaint to the Swedish police. In the wake of the tragic death of Sajid Hussain, another Palestinian journalist living in Sweden, we implore the Swedish police to take these threats seriously.

⁷⁰ 'ДБР розслідує законність дій правоохоронців по відношенню до журналіста', 29 April 2020 <https://dbr.gov.ua/news/dbr-rozslidue-zakonnist-diy-pravookhoronciv-po-vidnoshennyu-do-zhurnalista>

⁷¹ RSF, 'Wave of attacks on reporters covering coronavirus lockdown in Ukraine', 10 April 2020 <https://rsf.org/en/news/wave-attacks-reporters-covering-coronavirus-lockdown-ukraine>; RSF, 'Ukrainian police attack reporter covering protest against Covid-19 lockdown', 7 May 2020 <https://rsf.org/en/news/ukrainian-police-attack-reporter-covering-protest-against-covid-19-lockdown>

⁷² Middle East Monitor, 'Palestine artist attacked over anti-Bin Salman caricature', 23 April 2020 www.middleeastmonitor.com/20200423-palestine-artist-attacked-over-anti-bin-salman-caricature

⁷³ European Federation of Journalists, 'Sweden: Cartoonist threatened with death after publishing cartoon', 8 May 2020 <https://europeanjournalists.org/blog/2020/05/08/sweden-cartoonist-threatened-with-death-after-publishing-cartoon>

4. Free speech

Article 19 of the Universal Declaration of Human Rights allows for everyone to possess the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and share information. Globally, in recent years, we have seen freedom of expression being eroded, and the Covid-19 crisis intensifies concerns of greater repression of free speech.

Tunisia

Tunisian authorities have charged blogger Emna Chargui with ‘inciting hatred between religions through hostile means or violence’ under article 52 of the 2011 Decree-Law on press freedom, for which she faces up to three years in prison and a fine of up to 2,000 dinars.⁷⁴

The blogger reposted on Facebook, with humorous intent, a short text entitled ‘Surat Corona’, written and formatted the manner of a Quranic chapter.⁷⁵ She was summoned on 4 May 2020 by the police, and was interrogated by no less than seven members of the local public prosecutor’s office. She was charged on 6 May 2020 with ‘inciting hatred between religions through hostile means or violence’, under Article 52 of the press freedom decree-law and she faces up to three years in prison.⁷⁶ According to Chargui, she was told during her interrogation that ‘there is no freedom of expression when it comes to religion’.⁷⁷ The IBAHRI joins with Amnesty International to reflect on crisis situations, like the Covid-19 pandemic, where international law allows authorities to exceptionally prohibit some types of speech, the consequences of which could endanger public health. However, in cases like Chargui, the IBAHRI requests the Tunisian authorities to respect the right to free expression.

Morocco

A young woman from Merzouga posted a 15-second video in early April where she imitates, with obvious humorous intent, a local security figure who had gained notoriety for her peculiar way of scolding people who do not comply with the lockdown rules.⁷⁸ After the video gained traction online, the woman was arrested and sentenced to two months in prison, under Article 382 of the penal code prohibiting ‘unauthorised public wearing of an official uniform’.⁷⁹ The *gendarme* who lent her his uniform to shoot the video was also reportedly sentenced to one month in prison.⁸⁰

⁷⁴ Décret-loi n° 2011-115 du 2 novembre 2011, relatif à la liberté de la presse, de l’impression et de l’édition <https://haica.tn/instance/textes-legislatifs/decret-loi-n2011-115-du-2-novembre-2011-relatif-a-la-liberte-de-la-presse>

⁷⁵ Business News, ‘Affaire de Emna Chargui, une blague qui a mal tourné ?’, 6 May 2020 www.businessnews.com.tn/affaire-de-emna-chargui-une-blague-qui-a-mal-tourne,520,98200,3

⁷⁶ Human Rights Watch (HRW), ‘Humor Comes at a Price in Morocco and Tunisia’, 13 May 2020 www.hrw.org/news/2020/05/13/humor-comes-price-morocco-and-tunisia

⁷⁷ HRW, n.76

⁷⁸ HRW, n.76

⁷⁹ The New Arab, ‘Female bloggers ‘arrested for joking’ in Morocco, Tunisia over social media posts”, 14 May 2020 <https://english.alaraby.co.uk/english/news/2020/5/14/morocco-tunisia-arrest-female-bloggers-over-social-media-jokes>

⁸⁰ Amazan24, ‘حورية القايذة تقلد الدركي عشيقها بزي ظهرت لشابة السجن’, 12 April 2020 <https://amazan24.com/7057>

The IBAHRI grows increasingly concerned over this trend of state repression in the Maghreb and elsewhere. Caricatures and satires are essential aspects of freedom of expression. They often allow their author to convey crucial messages, for instance related to important political or social issues. This contributes to the democratic debate, and, therefore, to the democratic stability of a country. Punishing individuals for their jokes sets a very dangerous precedent and, further, such severe measures in the current context can only increase the pressure and psychological distress of the people, who already have to endure stringent lockdown conditions.

Yemen

Yemeni Nobel Peace Prize laureate Tawakkol Karman is being targeted by pro-Saudi and United Arab Emirates social media accounts and news sites following her appointment on 6 May 2020⁸¹ onto Facebook's new Global Oversight Board for Facebook and Instagram Content Panel.

The Panel will monitor the platforms for harassment, hate speech and misleading images and content, although its actual potential has been questioned.⁸² On 11 May 2020 Karman, an outspoken defender of democracy and freedom of speech, reported being the victim of widespread bullying and a smear campaign by Saudi media and their allies. She has fled to Turkey for her safety, evoking Jamal Khashoggi's tragic fate in the hands of the Saudi executioners.⁸³

Critics have accused her of holding radical views and of being affiliated to the Muslim Brotherhood, since she was previously a member of the Islah party in Yemen, the Brotherhood's arm in the country. Many activists, notably from Egypt, Saudi Arabia and the UAE, where the Brotherhood has been banned as a terrorist organisation, have criticised Facebook's decision and denounced Karman's alleged extremism.⁸⁴

The IBAHRI is shocked by the ongoing smearing campaign against Tawakkol Karman. Like the Khashoggi case, this persecution of a vocal proponent of justice and human rights reminds us of the heavy price often paid by human rights activists.

⁸¹ Reuters, 'Facebook names first members of oversight board that can overrule Zuckerberg', 6 May 2020

www.reuters.com/article/us-facebook-oversight/facebook-names-first-members-of-oversight-board-that-can-overrule-zuckerberg-idUSKBN22I2LQ

⁸² Washington Post, 'Facebook has a huge truth problem. A high-priced 'oversight board' won't fix it', 14 May 2020

www.washingtonpost.com/lifestyle/media/facebook-has-a-huge-truth-problem-a-high-priced-oversight-board-wont-fix-it/2020/05/14/c5b53cba-95d9-11ea-9f5e-56d8239bf9ad_story.html

⁸³ Tawakkol Karman, 'I am subjected to widespread bullying & a smear campaign by #Saudi's media&its allies.What is more important now is to be safe from the saw used to cut #jamalkhashoggi's body into pieces.I am in my way to #Turkey&I consider this as a report to the international public opinion.' (Twitter, 11 May 2020)

<https://twitter.com/TawakkolKarman/status/1259692063853096967>

⁸⁴ Middle East Eye, 'Tawakkol Karman faces targeted Gulf criticism for new Facebook role', 11 May 2020

www.middleeasteye.net/news/tawakkol-karman-criticised-facebook-monitoring-position

5. Digital rights and internet shutdowns

Governments that are currently imposing an internet shutdown in states, including Jammu and Kashmir, restrict the flow of information during the Covid-19 global crisis. Other states have instead elected to simply cap internet speed, making it virtually impossible to download files, communicate and disseminate information.

Hungary

On 4 May 2020, Hungarian authorities issued Decree No.179/2020, which restricts the protection and rights of data subjects. More specifically, the decree suspends Articles 15 to 22 of the EU General Data Protection Regulation (GDPR) in relation to personal data processed for the purpose of preventing, recognising or investigating the spread of the new coronavirus. The decree also restricts the right to claim public information.⁸⁵ The suspension of the GDPR is expected to last as long as the state of emergency (which has been prolonged for an indefinite duration on 31 March).

This means that data controllers are not obliged to take action upon requests for access to, erasure, rectification and restriction of the processing of a data subject's personal data relating to Covid-19 until the termination of the state of emergency. The new measure does not detail the categories of data and of the data controllers concerned, which results in uncertainty as any data controller processing personal data relating to Covid-19 can loosely interpret the provisions. Further, data controllers will not be required to provide personalised information to data subjects upon processing their information, but simply a privacy notice stating the purpose and legal basis of the processing.⁸⁶

Although the decree mentions Covid-19 as its motivation for the change, it does not specify exactly why the suspension of the GDPR regulations are necessary. Some have argued that the Hungarian authorities have suspended these data rights in order to implement their own contact-tracing programme. Meanwhile, the Hungarian data protection authority said it had not been consulted on this decision.⁸⁷

Article 23 (1) of the GDPR allows for certain restrictions on the scope of the rights and obligations provided, *inter alia*, by Articles 12 to 22 when such restrictions respect the essence of the fundamental rights and freedoms, and are necessary and proportionate in a democratic society to safeguard defence, national security and public security, etc. Article 23 (2) however, provides that any such legislative measure must contain specific provisions, where relevant, as to: the purposes of the processing or categories of processing; the categories of personal data; the scope of the restrictions introduced; the safeguards to prevent abuse or unlawful access or transfer; the specification of the controller or categories of controllers; the storage periods and applicable safeguards; the risks to the

⁸⁵ CMS Law Now, 'Hungarian government overwrites the GDPR in its COVID-19 state-of-emergency decree', 7 May 2020 www.cms-lawnow.com/ealerts/2020/05/hungarian-government-overwrites-the-gdpr-in-its-covid-19-state-of-emergency-decree

⁸⁶ CMS Law Now, n.86

⁸⁷ Global Data Review, 'Hungary under fire for GDPR suspension', 7 May 2020 <https://globaldatareview.com/data-privacy/hungary-under-fire-gdpr-suspension>

rights and freedoms of data subjects; and the rights of data subjects to be informed about the restriction, unless that may be prejudicial to the purpose of the restriction.⁸⁸

These conditions are meant to provide safeguards against abuses by states in contexts of threats against national and public security. Consequently, the IBAHRI urges Hungarian authorities not to impose a clear-cut choice between protecting privacy and digital rights on one hand, and promoting public health on the other; and to condition any restriction on individual rights to criteria of necessity, proportionality and legality.

Turkey

Three weeks after a Bill bringing expansive restrictions on access to and freedom of expression on social media platforms, a new Bill was presented to the Turkish parliament calling for all social media users to receive an internet identity number from the government, without which they could not use the platforms.⁸⁹

A state official stated that those who wish to use the services available on social networks would have to create profiles using their Turkish Citizenship Identity Number, thus preventing creation of fake profiles in Turkey. Internet providers that do not adhere to the law could reportedly face a fine of up to \$750,000. Between 15 March and 5 April 2020, about 3,500 complaints were issued relating to 'misuse of social media platforms'. These misuses include disparaging action taken by the government against the virus, reporting greater numbers of infected people than official numbers, directly criticising or insulting President Erdogan, his ministers or other civil servants.⁹⁰ Incidentally, more than 400 people are believed to have been detained by authorities over social media posts related to Covid-19 between 16 March and 27 April.⁹¹

The IBAHRI deplores Turkey's persistence in repressing freedom of expression online, and urges Turkish lawmakers to refrain from giving a legal foundation to any surveillance tool, such as a mandatory internet user number that would allow the immediate identification of authors of social media posts.

⁸⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32016R0679#d1e1374-1-1>

⁸⁹ Dokuz8HABER, "'ID number to be basis of social media profiles in Turkey' proposal by government ally MHP", 30 April 2020 <https://dokuz8haber.net/english/digital/id-number-to-be-basis-of-social-media-profiles-in-turkey-proposal-by-government-ally-mhp>

⁹⁰ Haaretz, 'Erdogan Attempts to Use Coronavirus to Crack-down on Internet Freedoms', 3 May 2020 www.haaretz.com/middle-east-news/turkey/.premium-erdogan-attempts-to-use-coronavirus-to-crack-down-on-internet-freedoms-1.8817103

⁹¹ FRANCE 24, 'Turkey detains more than 400 for Covid-19 social media posts', 27 April 2020 www.france24.com/en/20200427-turkey-detains-more-than-400-for-covid-19-social-media-posts