



IBAHRI Freedom of Expression Bulletin

For release: 14 July 2020

This week, the IBAHRI Freedom of Expression Bulletin covers the approval of amendments to the administrative code in Tajikistan to criminalise ‘false news’, how protests in Ethiopia sparked the shutting down of the internet in the country and Russian journalist Svetlana Prokopyeva, who was found guilty of ‘publicly justifying terrorism’.

The Bulletin also reports on the IBAHRI’s advocacy at the 44th Session of the UN Human Rights Council (UNHRC) relating to the freedom of expression. Activities under agenda item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, involved:

- a [written submission](#) linking to a report authored by David Kaye, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression entitled ‘Disease pandemics and the freedom of opinion and expression’ ([A/HRC/44/49](#));
- delivering an [oral statement](#) as part of the interactive dialogue with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, calling for promotion and protection of the indispensable role of the independent media and journalists as well as fostering an enabling environment for reporting and to ensure that these protections are not curtailed by legislation or measures purporting to deal with the dissemination of disinformation/misinformation or to protect national/ international security interests; and
- joining an [oral statement](#) delivered by the International Service for Human Rights as part of the interactive dialogue with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, reflecting on limits to open and independent media in China, and the targeting of lawyers who may seek to defend those criminalised for their speech.

Message from Baroness Helena Kennedy QC, IBAHRI Director and Member of the High-Level Panel of Legal Experts on Media Freedom:¹

‘In light of global challenges presented by Covid-19, and considering pre-existing hurdles to media freedom, it is important to recognise the risks and pressures journalists and media workers experience. These include threats, harassment and physical violence, online and offline, as well as the targeting of family members which often deters journalists from undertaking their work and can lead to self-censorship, resulting in the restriction of the public access to vital, fact-checked information. Around the world, governments and police authorities are cracking down on legitimate reporting and dissent, with sweeping misuse of existing legislation or creating new measures to arrest, detain or enforce sanctions in the forms of fines and imprisonment, baselessly criminalising journalism and those who speak truth to power. Some journalists also risk being branded as foreign agents or falsely accused of committing acts of terrorism, simply for doing their jobs. Reflecting on the intensified crackdown against truth-tellers in countries including Russia, Belarus, Turkey, Hong Kong, Thailand, Morocco and Mexico, we must condemn attacks against journalists in all forms and states must ensure that no legislation is passed to interfere, limit or criminalise their freedom of expression at this unprecedented time.’

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

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.² 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.

² UNESCO, '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.

Tajikistan

On 26 June 2020, the National Assembly of Tajikistan unanimously approved amendments to the administrative code making the dissemination of knowingly false information in the context of the Covid-19 pandemic, via the media, the internet and on social media networks, illegal.³ Article 374, note 1 of the Administrative Code of the Republic of Tajikistan provides for administrative liability in the form of fines and administrative arrest.⁴ Despite calls from rights groups to avoid ratification of the proposed changes, on 4 July 2020, Tajik President Emomali Rahmon signed the amendments to the Code of Administrative Offences. Those convicted under the amended offence could face administrative detention of up to 15 days and fines ranging from 580 to 1,160 somoni (around 50 to 100 euro) – for media outlets, a harsher penalty could lead to them being fined up to 8,700–11,600 somoni (800 to 1,100 euro).⁵ In an interview with the Committee to Protect Journalists, Nuriddin Qarshiboev, the head of the National Association of the Independent Mass Media of Tajikistan, a local trade group, stated that the amendments were ‘a repressive step that will limit freedom of receiving and spreading information’ and said the vague phrasing of the amendments could empower authorities to crack down on the press in the run-up to the country’s presidential elections later this year.⁶

The IBAHRI fears that the additions to the existing code, under the guise of tackling ‘false news’ relating to the pandemic, will be used as a tool to further crack down on the media, journalists, and free expression in the country. We remain concerned at an increasing number of governments around the world who, in response to the Covid-19 crisis, have adopted or extended their emergency powers to stifle critical reporting on the pandemic and we will continue to monitor developments in Tajikistan closely.

³ Central Asian Bureau for Analytical Reporting, ‘Tajikistan: New legislative amendments hit journalists’, 29 June 2020 <https://cabar.asia/ru/tadzhikistan-novyie-zakonodatelnye-popravki-udaryat-po-zhurnalistam/>

⁴ Central Asian Bureau for Analytical Reporting, n.3

⁵ International Press Institute, ‘Tajikistan passes coronavirus ‘fake news’ law’, 7 July 2020 <https://ipi.media/tajikistan-passes-coronavirus-fake-news-law/>

⁶ Committee to Protect Journalists, ‘Tajikistan parliament approves amendments imposing fines, detentions for ‘false news’ amid COVID-19 pandemic’ <https://cpj.org/2020/06/tajikistan-parliament-approves-amendments-imposing-fines-detentions-for-false-news-amid-covid-19-pandemic/>

Philippines

On 3 July 2020, President Rodrigo Duterte of the Philippines signed the controversial Anti-Terrorism Act 2020 into law which provides the executive branch sweeping powers to act against individuals and organisations, and anyone in support of them, considered as ‘terrorists’.

The Act creates a new anti-terrorism council, to be appointed by the President with the power to categorise individuals and organisations as ‘terrorists’ without independent oversight. The bill is an amendment to the Human Security Act 2007, which, according to numerous human rights groups, was used to justify arrests and file false charges against activists and government dissidents. According to the International Coalition for Human Rights in the Philippines (ICHRP), a growing number of activists and civilians have been targeted, harassed, jailed, and killed during the pandemic. This fits under the general trend of Duterte’s presidency to persecute independent media and freedom of speech, by arresting journalists and social media users that criticise the government.

As [previously reported](#) in this bulletin, Section 9 of the law criminalises incitement to commit terrorism ‘by means of speeches, proclamations, writings, emblems, banners or other representations tending to the same end’ and establishes specialised anti-terrorism courts to hear cases under the new law, raising concerning questions of constitutionality. The law also punishes the following offences with up to 12 years’ imprisonment:

- Threatening to commit ‘terrorism’;
- Inciting others or proposing to commit ‘terrorism’;
- Voluntarily and knowingly joining any ‘terrorist group’; and
- Acting as an accessory in the commission of ‘terrorism’.⁷

Rights groups and individuals, in response to the law which is due to be implemented later this month,⁸ echoed particular concerns as to the vague and overly broad definition of terrorism which allows the government to crack down on any, and all, peaceful dissenters as terrorists, violating rights to security, privacy and the right to due process and curtailing rights to freedom of expression and association – these rights are protected by the Philippine Constitution, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the ASEAN Human Rights Declaration. Opponents have also expressed concerns about relaxing legal restrictions for security agencies and police, which might create openings for abuse⁹ as the law provides no certitude. The act also allows suspects to be detained without a

⁷ Amnesty International, ‘Philippines: Dangerous anti-terror law yet another setback for human rights’. 3 July 2020, www.amnesty.org/en/latest/news/2020/07/philippines-dangerous-antiterror-law-yet-another-setback-for-human-rights/

⁸ The Guardian, ‘Duterte’s anti-terror law a dark new chapter for Philippines, experts warn’, 9 July 2020, www.theguardian.com/world/2020/jul/09/dutertes-anti-terror-law-a-dark-new-chapter-for-philippines-experts-warn

⁹ South China Morning Post, ‘The Philippines need Duterte’s anti-terror bill, but addressing roots of extremism means going beyond its text’, 18 June 2020, www.scmp.com/week-asia/opinion/article/3089558/philippines-needs-dutertes-anti-terror-bill-addressing-roots

judicial warrant of arrest for 14 days, which can be extended by ten days, and placed under surveillance for 60 days, that can also be extended by up to 30 days, by the police or military.¹⁰

On 4 June 2020, a [UN report](#) on the situation of human rights in the Philippines stated that the vague language of the law could 'violate the principle of legality'.¹¹ In light of the blatant crackdown on media, journalists, human rights defenders and individuals who criticise President Duterte's administration, including the continuing cases against online news network Rappler, and Rappler CEO Maria Ressa, as well as the recent closure of the Philippines' biggest radio and TV network, ABS-CBN (whose request for a new franchise has been rejected by a congressional committee in 'a flagrant violation of the country's constitution')¹², the IBAHRI remains deeply concerned about the misuse of this legislation, proposed to protect national security and strengthen public order. The IBAHRI calls on the Philippines to amend the legislation to ensure compliance with international human rights norms and standards.

¹⁰ Amnesty International, n.7

¹¹ UN, 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines', 4 June 2020, www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf

¹² RSF, 'Duterte's congressional supporters seal Philippine network's fate', 10 July 2020, <https://rsf.org/en/news/dutertes-congressional-supporters-seal-philippine-networks-fate>

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 capability 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. In particular, whether the current Covid-19 pandemic is being used as a 'Trojan horse' to build a surveillance infrastructure that will continue long 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 must be limited to Covid-19 purposes.
- 4) Data security and anonymity must be protected and shown to be protected based on evidence.
- 5) Digital surveillance must avoid exacerbating discrimination and marginalisation.
- 6) Any sharing of data with third parties must 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' is required, including public health experts and marginalised groups.

Canada

On 9 July 2020, the Office of the Information and Privacy Commissioner of Alberta (OIPC) released a report into the ABTraceTogether voluntary contact tracing app in place to monitor the spread of Covid-19 in the province. The OIPC report found that the app poses a 'significant security risk' to Apple products as it requires screens to remain open to use it. Alberta Health Services (AHS) advised iOS operating system users to keep their phone screens open with 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

on,¹⁴ which could be particularly risky for organisations that provide Apple devices to employees and who have access to sensitive information.

The report contains nearly 20 recommendations, including a requirement to keep users informed about any changes made to the app, to consider obscuring user IDs, to inform the commissioner on when the app will be neutralised, to review the functions of the app including limiting the number of 'handshakes', which is where devices exchange IDs, and to publish a report on how AHS has implemented the recommendations made. In response, AHS have confirmed they will be reviewing the report and recommendations and will make changes wherever possible.¹⁵

The IBAHRI is pleased that AHS has agreed to review the report and to work with multinational tech companies Apple Inc and Google LLC (via its Android software) to develop resolutions that will allow the app to run in the background¹⁶ and take on board threats to privacy rights. However, we are concerned to learn that this issue was raised in May 2020 and is yet to be resolved. We recommend AHS work to resolve this issue with urgency to eliminate the security risks posed to Apple users. The OIPC report will undoubtedly raise concerns for citizens and as the IBAHRI has previously reported, contact tracing apps will only work if the public trust the government and at least 60 per cent of the population use them and use can be prompted if citizens recognise that sufficient safeguards and procedures against data exploitation are in place. During this difficult time, we urge states to recognise their pre-existing responsibilities to protect citizens' privacy and data in overcoming the virus.

Japan

The Japanese government temporarily shelved their Covid-19 contact tracing app (known as 'COCOA') on 11 July 2020 to address a glitch which reportedly prevented users from entering critical information to send out alerts. After infected users enter their individual reference numbers issued by health authorities, the app is supposed to notify people who had close contact with them. The Japanese Health Ministry confirmed on 10 July that the app does not recognise the reference numbers even when entered, impeding the notification process. The app, which has purportedly been downloaded by millions of users, is not expected to be back in operation until the coming week and will still keep track of contact history without being able to send alerts.¹⁷

Katsunobu Katō, the Minister of Health, Labour, and Welfare, halted use of the app due to a bug. The app is designed to notify users if they came into close contact with someone who was recently infected with Covid-19, however the defect meant that people could input random numbers in place of an official ministry-issued processing number to report testing positive. However, the

¹⁴ Edmonton Journal, 'Alberta contact tracing app poses security risk to Apple products: privacy commissioner', 10 July 2020, <https://edmontonjournal.com/news/local-news/alberta-contact-tracing-app-poses-security-risk-to-apple-products-privacy-commissioner>

¹⁵ Edmonton Journal, n.14

¹⁶ Global News, 'Alberta's COVID-19 contact-tracing app a 'security risk' on Apple devices: privacy commissioner'. 9 July 2020, <https://globalnews.ca/news/7159859/alberta-covid-19-coronavirus-tracking-app-risks/>

¹⁷ The Japan Times, 'Japan's contact-tracing app suspended again to fix input glitch preventing alerts', 11 July 2020, <https://www.japantimes.co.jp/news/2020/07/11/national/japans-contact-tracing-app-glitch/#.XwwohyhKjIV>

issue is not expected to have caused false alerts, as those who enter non-existent processing numbers are not considered by the app to have tested positive.¹⁸

While the IBAHRI commends the government's efforts in trying to stem the spread of the virus and welcome Prime Minister Shinzo Abe's assurances that the app 'does not collect personal data at all. People can use it without worry.'¹⁹ However, we are concerned that many states, including Japan, despite concerns raised by experts prior to launch, have rushed to create tracing apps which have not been sufficiently tested to ensure they are fit for purpose or designed with privacy in mind and come without adequate guarantees that there will not be any scope creep, so that they can be used for other purposes. We urge all states to ensure that all apps are developed with privacy and data protection in the design, and in line with human rights and privacy standards.

¹⁸ The Japan Times, 'Bugs force health ministry to halt Japan's virus contact-tracing app', 23 June 2020
<https://www.japantimes.co.jp/news/2020/06/23/national/bugs-japan-virus-contact-tracing-app/#.XvKzcZMzZmC>

¹⁹ The Japan Times, 'Japan's coronavirus contact-tracing app launched amid privacy concerns', 19 June 2020,
<https://www.japantimes.co.jp/news/2020/06/19/national/japan-contact-tracing-app-launched/>

3. Safety of journalists

The independence and safety of journalists is a crucial element 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.

Russia

On 6 July 2020, Svetlana Prokopyeva, a Pskov-based freelance journalist, was convicted of 'justifying terrorism' by a Russian military court in Pskov²⁰ in connection to her 2018 reporting into the bombing of Federal Security Service offices in Arkhangelsk,²¹ Russia. The court sentenced the journalist to pay a fine of 500,000 roubles and ordered the confiscation of her computer and phone.²² Prokopyeva was initially indicted on 20 September 2018 for 'public incitement to terrorist activity, public justification or propaganda of terrorism'.²³ The casefile contained 12 volumes and the indictment was 99 pages long.²⁴ Her trial was later suspended indefinitely due to the Covid-19 pandemic.

On 7 November 2018, Prokopyeva discussed on Radio Ekho Moskvyy an attack that had happened the month before. In October 2018, a 17-year-old detonated a homemade suicide bomb inside a Federal Security Service (FSB) office, killing himself and injuring some FSB officers in Arkhangelsk. Before the attack, the 17-year-old posted on social media that he was going to commit 'an act of terrorism' because the 'FSB . . . fabricates criminal cases and tortures people'.²⁵ On the show, Prokopyeva commented that the teenager grew up in Putin's Russia, a 'ruthless state' where political activism is nearly impossible and civil and political rights are restricted,

²⁰ The New York Times, 'Russian Court Convicts Journalist for 'Justifying Terrorism'', 6 July 2020, www.nytimes.com/2020/07/06/world/europe/russia-journalist-convicted.html

²¹ Article 19, 'Russia: ARTICLE 19 condemns conviction of journalist Svetlana Prokopyeva for "justifying terrorism"', 7 July 2020, www.article19.org/resources/russia-article-19-condemns-conviction-of-journalist-svetlana-prokopyeva-for-justifying-terrorism

²² The New York Times, n.20

²³ Human Rights Watch, 'Russian Journalist Sentenced on Bogus Terrorism Charges', 6 July 2020, www.hrw.org/news/2020/07/06/russian-journalist-sentenced-bogus-terrorism-charges

²⁴ Human Rights Watch, n.23

²⁵ Human Rights Watch, n.23

leaving violence as the only path of dissent for people like the 17-year-old assailant.²⁶ The show was then posted on Radio Ekho Moskvyy's website and a transcript was published by Pskovskaya Lenta Novostey (Pskov Newsfeed). Pskov Newsfeed and Radio Ekho Moskvyy later took down the content of the show after they were warned by the Roskomandzor, Russia's federal body responsible for overseeing online and media content, that the show contained a 'justification of terrorism'.²⁷ From 6–7 February 2020, a magistrate court in Pskov fined Radio Ekho Moskvyy and Pskov Newsfeed 150,000 roubles and 200,000 roubles respectively for 'producing or publishing materials "justifying terrorism or containing public incitement to terrorist activities"'.²⁸ According to reports, Russia's Human Rights Council has denounced the charges as unwarranted, adding its voice to a chorus of support for Prokopyeva in what became a battle of wills between an impecunious local reporter and Russia's powerful security apparatus.²⁹

In another case, on 7 July, the former journalist and current space agency Roscosmos employee Ivan Safronov, was arrested and accused of treason. The Federal Security Service claimed that Safronov was suspected of aiding the intelligence services in the Czech Republic and passing on classified information concerning the Russian Federation. However, authorities state that the accusations were not related to Safronov's work at Roscosmos, raising the concern they could be in connection to his work as a journalist. Between 7–8 July, there were reports of at least two dozen journalists being detained protesting Safronov's arrest and although many were later released without charge, some journalists were charged.³⁰ If convicted, Safronov could spend up to 20 years in jail. PEN America noted that due to the sensitivity of the case, Safronov will face trial behind closed doors and may face additional difficulties accessing his lawyers.³¹

The conviction of Prokopyeva and arrest of Safronov come as a great blow to freedom of expression and media freedom in Russia. Freedom of expression is a fundamental human right enshrined in the Russian Constitution and guaranteed by Article 10 of the European Convention on Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and Article 19 of the Universal Declaration of Human Rights. The IBAHRI condemns the conviction of Prokopyeva, calling for the decision to be reversed immediately and remains concerned at the criminalisation and persecution of journalists simply for doing their jobs.

Iran

On 30 June 2020, Ruhollah Zam, an Iranian journalist and government dissident, was convicted of 'corruption on Earth' and sentenced to death by the 15th branch of Tehran's Revolution Court. Zam operated Amad News, an online news channel that broadcast the 2017 and 2018 nationwide demonstrations in Iran, sharing videos and messages from the protests. The channel also posted

²⁶ Human Rights Watch, n.23

²⁷ Human Rights Watch, n.23

²⁸ Human Rights Watch, n.23

²⁹ The New York Times, n.20

³⁰ Committee to Protect Journalists, 'Russian journalist Ivan Safronov charged with treason; journalists arrested at protests for his release', 8 July 2020, <https://cpj.org/2020/07/russian-journalist-ivan-safronov-charged-with-treason-journalists-arrested-at-protests-for-his-release/>

³¹ PEN America, 'Former Journalists Arrest in Russia May be Attempt to Silence Dissent' 9 July 2020, <https://pen.org/press-release/former-journalists-arrest-in-russia-may-be-attempt-to-silence-dissent/>

damaging information about Iranian officials and politicians. The channel was shut down briefly, after which it reappeared under another name. Before Zam's arrest, the network had around 1.4 million followers.

The conditions of Zam's return to Iran and subsequent arrest remain unclear. Reports from his wife indicate that Mr Zam disappeared in the 24 hours following his arrival in Iraq, where he had travelled from France on 11 October 2019. The arrest and detention of Ruhollah Zam are in breach of Iran's obligations under international law. Article 9 of the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party, protects the right to freedom from arbitrary arrest and detention. Article 9(1) further mandates that anyone arrested shall be promptly informed of any charges made against them at the time of arrest. Article 9 of the Universal Declaration of Human Rights mandates that '[n]o one shall be subjected to arbitrary arrest, detention or exile'.

Zam was tried by the 15th branch of Tehran's Revolution Court, presided over by Judge Abolqasem Salavati. Judge Salavati is a leading figure of media repression in the country, having sentenced over 100 journalists and workers in the 15th branch of Tehran's Revolution Court.³² Zam was accused of 17 charges, including 'spreading propaganda against the Iranian regime', and 'cooperating with foreign intelligence services'.³³ Zam has denied all these charges in court.

Furthermore, recent amendments to Article 48 of the Iranian Code of Criminal Procedure require applicants, during the investigation phase, to select their defence lawyer from a list approved by the head of the judiciary. This is deeply concerning, as it denies applicants, including Zam, their due process rights. This is in breach of Article 14 of the International Covenant on Civil and Political Rights, which guarantees fair trial rights, including that the person charged with a crime has the ability to communicate with legal assistance of their own choosing.

The IBAHRI recognises that the death sentence passed in this case violates Iran's obligations under international law to protect the right to life, a fundamental human right, as enshrined in Article 3 of the Universal Declaration of Human Rights. Article 5 of the Declaration further outlines that 'no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'. The right to life is guaranteed by Article 6 of the International Covenant on Civil and Political Rights (ICCPR). Article 6(2) of the ICCPR states that 'in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes'. The UN Human Rights Committee has stated that political offences cannot be characterised as the 'most serious crimes'.

Europe

On 3 July 2020, several European institutions advocating for media freedom and the safety of journalists issued a joint statement raising concern about the climate of hostility and violence against journalists covering protests across the European Union. The signing institutions, the European Centre for Press and Media Freedom (ECPMF), Article 19, the European Federation of Journalists (EFJ), Free Press Unlimited (FPU), the International Press Institute (IPI), and the Osservatorio Balcani e Caucaso Transeuropa (OBCT), have recorded over 31 cases of attacks and

³² RSF, 'Iranian judicial system: a repression machine against journalists', 2 July 2020, <https://rsf.org/en/news/iranian-judicial-system-repression-machine-against-journalists>

³³ The New York Times, 'Iran Issues Death Sentence for Opposition Journalist', 30 June 2020, www.nytimes.com/2020/06/30/world/middleeast/ruhollah-zam-iran.html

media freedom violations against at least 41 different journalists and media workers while covering protests in the first half of 2020.³⁴ Ten of the incidents led to the hospitalisation of journalists following serious injuries, and four have resulted in police arrests.³⁵

The incidents were recorded in 11 European countries: Albania, Austria, Belgium, France, Germany, Greece, Italy, Montenegro, Poland, Spain and the United Kingdom.³⁶ The attacks happened in protests covering a range of issues, including the Covid-19 lockdown measures, the Black Lives Matter protests, far-right rallies, and anti-migration protests.³⁷ Reports from the incidents show that the aggressions have many sources, including protestors, activist groups, and police forces. In many cases, attacks took place even in circumstances where journalists and media workers are clearly identified. These attacks clearly show a deterioration of the right of free assembly and association and the right of free press in the continent.

The right to freely assemble is enshrined in the constitutions of all countries in the European Union and the Candidate Countries, in Article 12 of the Charter of Fundamental Rights of the European Union, in Article 11 of the European Convention on Human Rights, in Article 21 of the International Covenant on Civil and Political Rights, and in Article 20 of the Universal Declaration of Human Rights.

The freedom of the press, closely intertwined with the freedom of thought and expression, is enshrined in the constitutions of all countries in the European Union and the Candidate Countries. It is also guaranteed by Article 11 of the Charter of Fundamental Rights of the European Union, Article 10 of the European Convention on Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and Article 19 of the Universal Declaration of Human Rights.

Turkey

On 3 July 2020, a trial started in Istanbul over the death of Saudi journalist and government dissident Jamal Khashoggi. Twenty Saudi nationals are accused by the Istanbul prosecutor and will face trial in absentia following a refusal by Saudi Arabia to extradite them. Turkish lawyers representing them said that they have been unable to reach them and that claims are denied.³⁸

The indictment of the trial was issued in March 2020 and accuses 18 Saudi nationals of committing the murder with 'monstrous intent and inflicting grave torment', and two others, both close aides to Saudi Crown Prince Mohammad bin Salman, to 'incitement to murder with monstrous intent and inflicting grave torment'.³⁹ The indictment, according to the Istanbul prosecutor, is based on evidence collected from cellphone location records of the accused, information of their entry and exit from Turkey, as well as searches of the accused's hotel rooms,

³⁴ International Press Institute, 'Fresh attacks worsen climate of hostility against journalists covering protests across Europe', 3 July 2020, <https://ipi.media/fresh-attacks-worsen-climate-of-hostility-against-journalists-covering-protests-across-europe/>

³⁵ IPI, n.34

³⁶ IPI, n.34

³⁷ IPI, n.34

³⁸ The New York Times, 'Trial of 20 Saudis in Jamal Khashoggi Killing Opens in Turkey', 3 July 2020, www.nytimes.com/2020/07/03/world/europe/turkey-jamal-khashoggi-trial.html

³⁹ NYT, n.38

the consulate, and the consul's residence.⁴⁰ Evidence was also drawn from Khashoggi's cellphone, laptop and iPad data, and from witness statements.⁴¹ The indictment names 54 witnesses, 26 of whom are Turkish staff workers at the consulate and consul's residence.⁴²

According to the indictment, 'Mr. Khashoggi was considered by Saudi officials and authorities as a threat against the government of Saudi Arabia, because of his articles, speeches in the meetings and conferences he joined, and his dissident acts for the change of the government.'⁴³ Khashoggi, who openly criticised the Saudi government and leadership, fled the kingdom out of fear of persecution. He wrote columns for The Washington Post and was the head of the advocacy group Democracy for the Arab World Now.

During the hearing held on 3 July, Hatice Cengiz, Khashoggi's fiancée, testified before court along with seven other Turkish consulate and consul's residence employees, and a friend of Khashoggi. The Turkish employees who took the stand said that 'they were ordered not to go to the consul's residence ... that day.'⁴⁴ One worker, Zeki Demir, a technician, was summoned to the consul's residence to light the oven in the garden usually used for barbecues.⁴⁵

The trial comes after the Saudi government held a trial in December 2019 prosecuting 11 men and sentencing five of them to death. The judgment, which did not find any Saudi senior officials guilty, has been criticised all around the world for its failure to render justice to Khashoggi. The United Nations Special Rapporteur on Extrajudicial Killings, Agnes Callamard, said the Turkish trial is the closest chance for justice available in this case.⁴⁶

Serbia

On 7 July 2020, four former Serbian State Security Service officers, who were convicted for their involvement in the murder of Serbian journalist Slavko Curuvija, appealed the first-instance verdict before the Appeals Court in Belgrade. The verdict was given by the Belgrade Higher Court in April 2019 after a four-year long trial.⁴⁷ The Court found that Curuvija was killed by an unknown perpetrator, however proceeded to sentence Radomir Markovic and Milan Radonjic to 30 years in prison, and Ratko Romc and Miroslav Kurak to 20 years for various degrees of involvement in the crime.⁴⁸

⁴⁰ NYT, n.38

⁴¹ NYT ,n.38

⁴² NYT, n.38

⁴³ NYT, n.38

⁴⁴ NYT ,n.38

⁴⁵ NYT, n.38

⁴⁶ NYT, n.38

⁴⁷ IPI, 'IPI closely watching re-trial decision for murder of Serbian journalist Slavko Ćuruvija' 6 July 2020, <https://ipi.media/ipi-closely-watching-re-trial-decision-for-murder-of-serbian-journalist-slavko-curuvija/>

⁴⁸ Balkan Insight, 'Serbian Security Officers appeal convictions for Journalists Murder', 7 July 2020, <https://balkaninsight.com/2020/07/07/serbian-security-officers-appeal-convictions-for-journalists-murder/>

Slavko Curuvija was a Serbian investigative reporter and the owner of the Dnevni Telegraph newspaper and Evropljanin magazine.⁴⁹ He was shot 14 times with an automatic weapon outside his house in Belgrade in 1999, during the NATO bombing of the Serbian capital.⁵⁰ Curuvija, through his journalistic work, was an outspoken critic of Yugoslav president Slobodan Milošević, and a vocal opponent of the regime.⁵¹

Morocco

On 5 July 2020, Omar Radi and Imad Stitou, two Moroccan investigative journalists for news website 'Le Desk', were arrested and detained overnight in Casablanca for alleged 'public intoxication and violence.'⁵² An investigation on the allegations, which include public intoxication, violence, insult, and filming without permission, is pending after the journalists' release on 6 July.⁵³

The arrest came, according to reports by 'Le Desk', after an alleged dispute between the two journalists and a camera operator from 'Chouf TV', a private news channel supportive of the regime. The camera operator had been following Radi since 25 June and, on the night of 5 July, waited for the two journalists outside a bar and filmed them when they exited.⁵⁴ Radi and Stitou filmed the camera operator back, escalating the situation into a dispute. The police arrived soon later and arrested Radi and Stitou.

Omar Radi, an award-winning investigative journalist, human rights defender and vocal critic of human rights abuses in Morocco, has been persecuted by the Moroccan government since January 2019.

In previous issues of this Bulletin, IBAHRI reported on Moroccan government use of illegal surveillance software against journalists, dissenters and human rights defenders, including Omar Radi, a practice first reported by Amnesty International in June 2020. On 24 June 2020, the Royal Public Prosecutor at Casablanca's Court of Appeal issued a statement saying that Radi had been summoned to appear before the National Brigade of Judicial Police and accused him of 'being a suspect of obtaining funds from foreign sources related to intelligence groups.'

Honduras

On 1 July 2020, German Vallecillo Jr and Jorge Pozas, two Honduran journalists, were shot to death in La Ceiba, on Honduras' northern coast. Vallecillo, a television reporter, and Pozas, a camera operator and producer, were on a street when a vehicle stopped and two gunmen opened

⁴⁹ IPI, n.47

⁵⁰ IPI, n.47

⁵¹ IPI, n.47

⁵² CPJ, 'Journalists Omar Radi and Imad Stitou Detained Overnight in Morocco' 6 July 2020, <https://cpj.org/2020/07/journalists-omar-radi-and-imad-stitou-detained-overnight-in-morocco/>

⁵³ CPJ, n.52

⁵⁴ CPJ, n.52

fire.⁵⁵ The spokesman for the Honduran national police said that five people have been detained in the case and that the matter was under investigation.

Rossel Pozas, a colleague of both journalists and uncle of Jorge Pozas, stated that 12 shots were aimed at Vallecillo and one bullet hit Pozas, who was sitting next to him.⁵⁶ Vallecillo was involved in politics and, according to his family, had expressed interest in running for a legislative seat from the area. His family affirmed that while Vallecillo had received threats related to his work in the past, they had stopped in recent months.⁵⁷ Pozas, on the other hand, is believed to not have received any threats.⁵⁸

The Honduran association of journalists said that 86 media workers had been killed in the country since 2001, and that only seven of those killings resulted in prosecutions.⁵⁹ The IBAHRI condemns the killings of the journalists and calls on the Honduran government to enable a swift and impartial investigation to the killings.

Pakistan

On 8 July 2020, a confidential memo from the Pakistani interior ministry regarding the obstruction of 'rhetoric against Pakistan' sent to six journalists based abroad was leaked to the public.⁶⁰ The memo, dated 18 June 2020, names six journalists – five Pakistanis and an Afghan citizen – said to be 'involved in various activities in Europe and America which are seriously damaging Pakistan's foreign interests abroad.'⁶¹ The memo states that government officials are 'requested to strictly follow [their] movements and social media accounts' and that they may approach them 'through proper channels to stop such rhetoric against Pakistan in future'.⁶² The memo accuses the six journalists of 'either participating in anti-Pakistan activities or producing anti-state content.'⁶³

The memo was not circulated within the interior ministry and instead was addressed to 'the Director-General of Inter-Service [sic] Intelligence (ISI), Islamabad, the Director-General of Inter-Services Public Relations (ISPR), the Special Assistant to the Prime Minister on Information and Broadcasting, the Director-General of Military Intelligence, Islamabad, and the Ministry of Foreign Affairs.'⁶⁴

⁵⁵ NYT, 'TV Reporter, Cameraman Shot to Death in Northern Honduras', 1 July 2020, www.nytimes.com/aponline/2020/07/01/world/americas/ap-ht-honduras-journalists-killed.html

⁵⁶ CPJ, 'Unidentified attackers shoot and kill 2 journalists in Honduras', 8 July 2020, <https://cpj.org/2020/07/unidentified-attackers-shoot-and-kill-2-journalists-in-honduras/>

⁵⁷ CPJ, n.56

⁵⁸ CPJ, n.56

⁵⁹ NYT, n.55

⁶⁰RSF, 'RSF warns Pakistani authorities not to threaten journalists living abroad', 8 July 2020, <https://rsf.org/en/news/rsf-warns-pakistani-authorities-not-threaten-journalists-living-abroad>

⁶¹ RSF, n.60

⁶² RSF, n.60

⁶³ RSF, n.60

⁶⁴ RSF, n.60

While it is not clear how the memo was leaked and for what purpose, it sends a clear sign that journalists both in Pakistan and abroad must be protected. Pakistan is one of the most dangerous countries for journalists to work in and threats have been known to come from both Pakistani intelligence agencies and its militant groups. Most recently, IBAHRI reported in previous issues of this bulletin the mysterious death of Sajid Hussain, a Pakistani journalist exiled in Sweden and Editor-in-Chief of *The Balochistan Times*. Hussain had gone missing in April and his body was found in a river 35 miles north of Stockholm on 1 May 2020.

Malaysia

On 10 July 2020, six journalists, five of whom are Australian, were summoned at a police station in Kuala Lumpur and were interrogated by the Malaysian authorities following the broadcast of a documentary on the television channel Al Jazeera English.⁶⁵

The documentary, titled 'Locked Up in Malaysia's Lockdown', reports on the situation of migrant workers in Kuala Lumpur during the Covid-19 pandemic. The 25-minute film 'examined why Malaysia's undocumented foreign migrant workers were at risk in the time of Covid-19' by documenting immigration raids and migrants hiding from Malaysian officials.⁶⁶ These events were largely covered by international media, but local media continues to say that the reports are 'inaccurate, misleading, and unfair.'⁶⁷ Since the broadcast of the film on 3 July 2020, the six journalists have faced harassment, including online abuse and death threats.⁶⁸ It is of particular concern that the journalists' personal details were leaked online, exposing them to great risk.

Malaysian authorities have accused the six journalists of sedition, defamation and violation of the country's Communication and Multimedia Act 1998. The journalists refute all the charges. Worryingly, the Malaysian police and the country's immigration department have issued a search notice for a migrant who spoke on the documentary, urging the public to 'come forward with information about the man.'⁶⁹

The measures taken by the Malaysian authorities greatly jeopardise the existence of a free press and stifle freedom of expression in the country. These freedoms, which are fundamental human rights, are protected by the Federal Constitution of Malaysia, the ASEAN Human Rights Declaration, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights.

Lebanon

On 6 July 2020, Lebanese army intelligence officers reportedly prevented two journalists from interviewing people at Hamra Street in Beirut. Charbel Abboud, a reporter for media company

⁶⁵The Guardian, 'Police interrogate five Australian Al Jazeera journalists accused of sedition in Malaysia', 10 July 2020, www.theguardian.com/media/2020/jul/10/police-interrogate-five-australian-al-jazeera-journalists-accused-of-sedition-in-malaysia

⁶⁶ The Guardian, n.65

⁶⁷ The Guardian, n.65

⁶⁸ The Guardian, n.65

⁶⁹ The Guardian, n.65

France 24 and Maha Hoteit, reporter for Lebanese newspaper Asharq Al-Awsat, were told they were not allowed to conduct interviews unless they obtain a permission from the army's Directorate of Orientation.

In an interview with France24, Abboud said that he was approached by plainclothes men who introduced themselves as intelligence officers, illegally asked for his press ID and took a photo of it. He contacted a 'colonel working for the army's Directorate of Orientation, who told him that in view of the current situation in Lebanon, there are new procedures in place.'

Maha Hoteit was filming along with a camera operator when she was also approached by a plainclothes officer who identified himself as army intelligence. When she objected to his conduct and asked for his official badge, he responded 'that this procedure is new and applies all across Lebanon.' The officer told Hoteit that they could continue to their work if they obtain the permission.

Hamra Street is Beirut's commercial street. Recently, it was one of the main locations for anti-government protests held over the financial crisis in Lebanon.

On 8 July 2020, Al-Araby Al-Jadeed, a Pan-Arab media outlet headquartered in London, reported that anonymous sources within the Directorate of Orientation are demanding journalists to submit a written request to obtain a permit and that the 'request must include their name, phone number, the time and location where they intend to film, the topic they seek to cover, and the purpose of the reporting'. The recent army conduct is unprecedented as journalists never have been required to have a permit to film or interview in Beirut.⁷⁰

The IBAHRI urges Lebanese authorities to stop obstructing the activities of journalists and media workers and allow the free flow of information at all times.

⁷⁰ CPJ, 'Army bars journalists from reporting on Beirut's Hamra Street, citing permit regulations', 10 July 2020, <https://cpj.org/2020/07/army-bars-journalists-from-reporting-on-beirut-hamra-street-citing-permit-regulations/>

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.

Tanzania

On 6 July 2020, the Tanzanian broadcast regulator, the Tanzania Communications Regulatory Authority, suspended Kwanza Online TV, a privately owned local news outlet. The suspension, which is set to last 11 months, comes after Kwanza Online TV ‘published misleading content that contravened professional standards.’⁷¹ More specifically, the Regulatory Authority accused the news outlet of ‘publishing false news’ and failing to ‘uphold national unity’.

The content in question is an Instagram post shared by the news outlet reposting a health alert from the US Embassy in Tanzania ‘warning of the ‘elevated’ risk of the COVID-19 pandemic in the country and alleging that the government had not released aggregate statistics on infections and deaths in the country since April 29.’⁷² In June, President John Magufuli declared Tanzania free of the virus, despite a growing number of media reports claiming that the country’s hospitals were still overwhelmed by the pandemic.⁷³ The government even objected to previous health alerts from the US Embassy.

In a letter sent by the Regulatory Authority to the management of Kwanza Online TV on 2 July 2020, the Authority ‘alleged that Kwanza Online TV’s Instagram account featured a post that was unpatriotic and could negatively affect the security, unity, and economy of the country.’⁷⁴ Kwanza Online TV, which is currently appealing in court a previous 6-month suspension by the Authority, has stated that it plans to appeal the suspension.⁷⁵ The news outlet also denied breaking any laws and said that the regulator was acting beyond its mandate.⁷⁶

Kwanza Online TV has not posted any new content on its website, YouTube channel, Instagram and Twitter accounts since the statement by the Regulatory Authority. We reported in previous issues of this bulletin the suspension of Tanzania Daima, an independent newspaper whose distribution and publication licence was revoked on 24 June 2020 for ‘publishing fake news’.

⁷¹ CPJ, ‘Tanzania bans Kwanza Online TV for 11 months citing ‘misleading’ Instagram post on COVID-19’, 9 July 2020, <https://cpj.org/2020/07/tanzania-bans-kwanza-online-tv-for-11-months-citing-misleading-instagram-post-on-covid-19/>

⁷² CPJ, n.71

⁷³ CPJ, n.71

⁷⁴ CPJ, n.71

⁷⁵ CPJ, n.71

⁷⁶ CPJ, n.71

The IBAHRI is concerned at the suspension and how it is part of a larger trend in Tanzania towards censorship of the free and independent media, especially under the guise of managing ‘false news’ and calls for the ban to be lifted immediately.

Pakistan

On 3 July 2020, the Pakistan Electronic Media Regulatory Authority (PEMRA) indefinitely suspended 24NewsHD, an independent news channel, for an alleged ‘illegal transmission of news and current affairs content’.⁷⁷ In its statement, PEMRA said that the decision is based on the fact that the news outlet “‘was only credentialed to air entertainment programming, not news.’⁷⁸

The decision has been labelled ‘one sided’ by the Association of Electronic Media Editors and News Directors, a local trade group, pointing to the fact that ‘24NewsHD had been broadcasting news for almost six years.’⁷⁹ According to the Association’s president, many channels in Pakistan broadcast content outside of their licences because of the fees involved in changing their credentials.⁸⁰

The suspension is believed to come after 24NewsHD broadcast content critical of the government.⁸¹ More particularly, the ‘Najam Sethi Show’, a show critical of the government, resumed broadcasting on the channel this year after being ordered off the air in August 2019 amid defamation suits by Pakistan’s Prime Minister Imran Khan.⁸² The decision will not only force the news channel to shut down but, according to unconfirmed reports, could also render as many as 700 journalists jobless.⁸³ Last year, 24NewsHD faced censorship when its cable broadcasts were blocked after it aired a speech by the leader of the opposition, Maryam Nawaz.⁸⁴ We stand with organisations including Media Matters for Democracy (MMFD) in condemning the decision to suspend the licence and request PEMRA ‘set forth a policy to address and process the applications of changing license types, which is, at best, a procedural matter and does not warrant the complete shutdown of a reputable news entity’.⁸⁵

⁷⁷ CPJ, ‘Pakistan media regulator suspends 24NewsHD broadcaster indefinitely, 6 July 2020, <https://cpj.org/2020/07/pakistan-media-regulator-suspends-24newshd-broadcaster-indefinitely/>

⁷⁸ CPJ, n.77

⁷⁹ CPJ, n.77

⁸⁰ CPJ, n.77

⁸¹ CPJ, n.77

⁸² CPJ, n.77

⁸³ IFEX, ‘Pakistan: Media Matters for Democracy condemns suspension of broadcast license of ‘24 News’ channel’, 12 July 2020, <https://ifex.org/pakistan-media-matters-for-democracy-condemns-suspension-of-broadcast-license-of-24-news-channel/>

⁸⁴ CPJ, n.77

⁸⁵ IFEX, n.83

Somaliland

On 25 June 2020, police officers in Hargeisa entered the offices of Star TV, a privately owned television station, without a warrant and ordered journalists to leave.⁸⁶ The police occupied the premises for at least five days. On 1 July, the Somaliland Ministry of Information stated that Star TV was under investigation but failed to provide further details.⁸⁷

On 27 June 2020, police officers raided the offices of Universal TV, another privately owned television station, and ordered journalists to leave. On 1 July, the Ministry of Information suspended Universal TV for 'unwillingness to cooperate' with the government by failing to cover Somaliland's Independence Day, thereby violating Somaliland's constitution and independence.

On 29 June 2020, in a letter shared by the state-owned news agency, it was stated that the licences to broadcast of Star TV and Universal TV had been revoked and that local cable companies were ordered not to carry their content. In addition, local businesses were called not to advertise on the two channels. It is not clear yet whether these measures have been implemented and, for the moment, both Star TV and Universal TV have continued to broadcast from other studios, including in Mogadishu and London.

Both closures are arbitrary and infringe upon the right of due process, in breach of Somaliland's constitution. On 9 June, the Somaliland Journalists Association, a local trade group, filed a complaint to the Hargeisa regional court to challenge the lack of explanation behind the closures, which contravened Somaliland's constitution.

⁸⁶ CPJ, 'Police occupy, close 2 television stations in Somaliland', 1 July 2020, <https://cpj.org/2020/07/police-occupy-close-2-television-stations-in-somaliland/>

⁸⁷ CPJ, n.86

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.

Ethiopia

On 30 June 2020, Ethiopian authorities implemented a blanket internet shutdown⁸⁸ across the country in the midst of protests over the murder of Hachalu Hundessa, a popular Oromo-language musician known for his political songs.⁸⁹ On the same day, federal police raided the premises of the Oromia Media Network, an Oromo-language media broadcaster, and detained several of its journalists. Oromia Media had interviewed Hachalu Hundessa one week prior.⁹⁰ On 5 July 2020, the government claimed that more than 166 people were killed during anti-government protests.⁹¹

In previous issues, the IBAHRI has reported concerns at the increasing use of internet shutdowns to censor information and restrict access to information, especially in times of social unrest and public health crises. The nationwide internet blackout comes as a breach of the right to information – a fundamental human right. Access to information at this unprecedented time is more important than ever – we call on the government of Ethiopia to restore connection to the internet and refrain from suppressing citizens' rights to protest as this time. The arbitrary use of internet shutdowns can have an irrevocable impact on the right to the freedom of expression and all states must refrain from taking measures to avoid or disrupt the ability for their citizens to access, seek, receive or impart information online.

Hong Kong

On Tuesday 30 June 2020, Chinese authorities approved the controversial national security law, which criminalises secession, subversion, terrorism and collusion with foreign forces, at the National People's Congress Standing Committee (NPCSC) extraordinary session.⁹² The approved

⁸⁸ AccessNow, 'Back in the dark: Ethiopia shuts down internet once again', 30 June 2020, www.accessnow.org/back-in-the-dark-ethiopia-shuts-down-internet-once-again/

⁸⁹ CPJ, 'CPJ condemns Ethiopian internet shutdown and Oromia media network raid', 30 June 2020, <https://cpj.org/2020/06/cpj-condemns-ethiopian-internet-shutdown-and-oromia-media-network-raid/>

⁹⁰ CPJ, n.89

⁹¹ Reuters, 'Uneasy calm in Ethiopia after protests, official death toll doubles', 5 July 2020, <https://uk.reuters.com/article/uk-ethiopia-protests/death-toll-in-ethiopian-protests-after-killing-of-singer-jumps-to-156-idUKKBN2460HC>

⁹² AP News, 'China approves contentious Hong Kong national security law', 30 June 2020, <https://apnews.com/b50a256d97b7199ea2e8b0530c24eabe>

law mandates police censorship and covert digital surveillance and it is particularly concerning that these rules can be applied to online speech across the world.⁹³

Article 4 of the new national security law states that the Security Bill upholds the applicability of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in Hong Kong, as well as the necessity to respect and protect human rights and freedoms while safeguarding national security, ‘including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration’ as protected under the Basic Law. The Security Law purports to impose limitations on human rights in the interests of national security. According to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, limitations of human rights, which are not the same as derogations from human rights obligations during states of emergency, must be necessary, proportional to their stated objectives, consistent with human rights and as minimally invasive of them as possible, and non-discriminatory in application.⁹⁴ The Security Law essentially normalises the use of emergency powers by the State by incorporating them into the ordinary legal framework of Hong Kong, thus permitting regular violations of the rule of law principles of transparency and accountability.⁹⁵ Article 43 of the law governs new powers and measures that law enforcement authorities can apply in Hong Kong and these implementation rules grant authorities sweeping powers to criminalise online speech, block access to online content, seize electronic devices and records, intercept communications, and place enforcement requirements on internet service providers, including telecommunications firms and content platforms, directly impacting human rights.⁹⁶

Many have expressed grave concern for the implementation of the national security law and it is essential that counter-terrorism measures do not violate the principle of legality, or violate the freedoms of thought or expression to the extent that legitimate opposition, human rights defenders, lawyers, or people giving legitimate criticisms of the government are targeted.⁹⁷ AccessNow called on all platforms operating in Hong Kong to ‘review policies and practices protecting their users in the wake of this new decree’ and noted a number of ways in which discretionary powers may be applied including:

- ‘The rules extend physical search and seizure powers to electronic devices, ostensibly requiring a warrant but also allowing for undefined “exceptional circumstance” where such intrusions can be authorised by an Assistant Commissioner of Police without judicial review.

⁹³ NYT, ‘In Hong Kong, a Proxy Battle Over Internet Freedom Begins’, 7 July 2020, www.nytimes.com/2020/07/07/business/hong-kong-security-law-tech.html

⁹⁴ [UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights challenge of states of emergency in the context of countering terrorism A/HRC/37/52 \(26 February-23 March 2018\)](#), para 8.

⁹⁵ UNHRC Report, n.94, para 18

⁹⁶ AccessNow, ‘New police powers in Hong Kong threaten human rights online’, 6 July 2020, www.accessnow.org/new-police-powers-in-hong-kong-threaten-human-rights-online/

⁹⁷ UNHRC Report, n.94, para 47

- The Commissioner of Police and Secretary for Security can order the blocking of content or even restrict access to entire web platforms, under broad grounds, with no requirement of prior judicial approval or subsequent review of such measures.
- Applications for authorisation of interception of communications and covert surveillance only require the authorisation of the Chief Executive, rather than the globally regarded best standards of judicial review or other independent oversight.
- Additionally, the rules create a requirement to furnish information and produce materials under this framework, which create the danger that internet service providers and digital platforms could be forced to comply with government measures that do not respect human rights. Failure to comply with these powers have been made punishable with large fines as well as imprisonment for a year'.⁹⁸

We join AccessNow in expressing serious concern over broad controls granted to public and police authorities in the region and how powers can transcend both physical and digital boundaries in violation of international human rights norms. We will continue to monitor this situation carefully.

⁹⁸ AccessNow, n.95