



IBAHRI Freedom of Expression Bulletin

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Message from The Rt. Hon. Lord Neuberger of Abbotsbury, Chair of the High-Level Panel of Legal Experts on Media Freedom¹:

‘The seriousness of our global predicament in the light of states’ heightened propensity for restrictions of individual freedoms have rendered key requirements of democracy all the more vital. Freedom of expression and right to information have been challenged on every continent during the past few weeks, reminding us that no country is above human rights regressions. Whilst international law allows for the implementation of emergency powers, these must be necessary, proportionate and non-discriminatory. We must also remember that our strength and our responsiveness in the face of the looming crisis rely heavily on our ability to communicate and impart accurate and reliable information.

The members of the **High Level Panel of Legal Experts on Media Freedom**, which I chair, have been working hard to develop and advance legal frameworks to support media freedom² globally. It is crucial to reiterate that universally; what we need most now more than ever is a sincere global commitment to the protection of the right to freedom of expression, notably by encouraging media pluralism, protecting the independence of journalists and media workers (online and on the frontline), and facilitating access to the Internet for everyone whilst implementing efforts to regulate this pandemic.’

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

² IBA Article, The fight for media freedom, 09/04/2020 www.ibanet.org/Article/NewDetail.aspx?ArticleUid=4DCBAB07-2FEE-4958-B6E9-3187A7D68A1D

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 can be 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 outbreak³. 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 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 beyond those necessary to contain the virus.

Cambodia

On Friday 10 April 2020, the Cambodian National Assembly passed a state of emergency law, which grants Prime Minister Hun Sen a broad array of powers, in a move that has been criticised by the opposition. The legislation was unanimously passed by the Senate on 17 April and the draft bill will now go to the King for Royal Assent⁴.

The Cambodian state of emergency legislation is based on Article 22 (New) of the Constitution, which provides that the King shall proclaim the state of emergency after agreement with the Prime Minister and the Presidents of both Parliament chambers, when the nation faces a danger.⁵ However, this article does not define the notion of 'danger', the measures contained in the legislation itself are also vaguely worded and it allows for an unlimited duration of time.⁶ The new legislation provides a legal basis for governmental control of the press and social media. It also allows the government to carry out unlimited surveillance of telecommunications and to restrict freedom of assembly and movement. Disobeying emergency measures could be met with a sentence of up to ten years imprisonment.⁷

It is unclear exactly how the ruling Cambodian People's Party plan to use the legislation, and what type of decree the government may issue, but if the country's poor human rights record is any indication, this development does not bode well for freedom of expression in the country. Indeed, journalists in Cambodia have already met repression from the government: for instance, TV journalist Sovann Rithy was arrested last week for quoting a speech by Hun Sen in which he allegedly, facetiously encouraged motorbike-taxi drivers to sell their vehicles as the government would not have the ability to help in the face of the unfolding economic crisis.

It is crucial to closely monitor future developments in Cambodia, as the balance between emergency measures and civil liberties is always subtle and fragile, especially as the draft law has already drawn concerns from the United Nations Special Rapporteur on the situation of human rights in Cambodia. In letter to the Cambodian government sent on 9 April 2020, Rhona Smith stated that the proposed law would restrict Cambodians' right to freedom of expression, right to freedom of association and

⁴ China.org, 'Cambodia's Senate passes draft bill on state of emergency amid COVID-19 pandemic', 17 April 2020
www.china.org.cn/world/Off_the_Wire/2020-04/17/content_75945235.htm

⁵ The Constitution of the Kingdom of Cambodia, 1993
https://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/Constitution_ENG.pdf

⁶ The Diplomat, 'Cambodia's COVID-19 Response in the Headlines with New State of Emergency,' 13 April 2020
<https://thediplomat.com/2020/04/cambodias-covid-19-response-in-the-headlines-with-new-state-of-emergency/>

⁷ The Guardian, 'Fears as Cambodia grants PM vast powers under Covid-19 pretext,' 10 April 2020
www.theguardian.com/world/2020/apr/10/fears-as-cambodia-grants-hun-sen-vast-power-under-covid-19-pretext#maincontent

peaceful assembly, as well as the right to movement as provided by the International Covenant on Civil and Political Rights (ICCPR)⁸. Therefore, the IBAHRI wishes to reiterate the valuable guidelines provided by the 1984 Siracusa Principles on the Limitation and Derogation of Provisions in the ICCPR and notably Article 51, which states that '[t]he 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'.⁹

Turkey

In Turkey, a number of new emergency measures are being drafted and some were passed in Mid-April. Officially they are aimed at curbing the spread of the virus, however it is evident that the regime's own political interests are influencing their response.

For instance, on Tuesday 14 April 2020, the Turkish Parliament passed a law granting around 45,000 prisoners early release in order to limit the spread of Covid-19 in prisons. This measure accompanies a separate piece of legislation, which has already provided for the permanent release of a similar number of detainees, to fulfil the same objective. The ruling party – Erdogan's AK Party – supported by its nationalist allies of the MHP, pushed the bill through with 279 votes in favour and 51 against. The law provides for a release under judicial control until the end of May, and allows the Justice Ministry to extend this period twice by up to two months each time.¹⁰

This measure is partly motivated by legitimate concerns relating to the vulnerability of inmates and prison personnel. Indeed, Turkey's prison are dangerously overcrowded with, as of 2019, about 286,000 prisoners for an official capacity of 220,000, which represents an occupancy level of approximately 118%.¹¹ However, critics and opposition members have highlighted that the new legislation operates a politically-motivated selection, as detainees charged under the country's anti-terrorism laws will not benefit from this measure. These broad, controversial laws allowed the authorities to abusively detain around 50,000 people in pre-trial detention, including lawyers, journalists, activists and politicians, following the government's crackdown on freedom of expression after the 2016 attempted coup d'état.¹² These tens of thousands of prisoners, including older individuals and those living with underlying health conditions, have been excluded from the release order, and are therefore left in prison, unfairly detained and vulnerable.¹³

⁸ Cambodianess, 'The State of Emergency Draft Law Is Approved by the Senate', 17 April 2020 <https://cambodianess.com/article/the-state-of-emergency-draft-law-is-approved-by-the-senate>

⁹ Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, 1984 www.uio.no/studier/emner/jus/humanrights/HUMR5503/h09/undervisningsmateriale/SiracusaPrinciples.pdf

¹⁰ Reuters, 'Turkish parliament passes bill to release thousands from prison amid coronavirus', 13 April 2020 <https://uk.reuters.com/article/uk-turkey-security-prisoners/turkish-parliament-passes-bill-to-release-thousands-from-prison-amid-coronavirus-idUKKCN21V23Z>

¹¹ World Prison Brief, Turkey www.prisonstudies.org/country/turkey

¹² FRANCE 24, 'Turkey to release thousands from prison amid Covid-19 crisis', 14 April 2020 www.france24.com/en/20200414-turkey-to-release-thousands-from-prison-amid-covid-19-crisis

¹³ Amnesty International, 'Turkey: Prison release law leaves innocent and vulnerable prisoners at risk of COVID-19', 13 April 2020 www.amnesty.org/en/latest/news/2020/04/prison-release-law-leaves-prisoners-at-risk-of-covid/

Osman Kavala¹⁴ is one of these 50,000 prisoners detained following protests in 2013. His case illustrates the persecution faced by activists or opposition members in Turkey.¹⁵ Held in solitary confinement for two years on specious charges of supporting and financing the protests, Mr Kavala, a philanthropist and activist, was acquitted on 18 February 2020. However, he remains in custody as a new warrant was immediately issued against him over his alleged support for the 2016 coup attempt.¹⁶

Erdogan's regime is seemingly bent on cracking down not only on critical individuals, but also on social media platforms, such as Twitter or YouTube. A draft law on economic measures to address the pandemic included articles that sought to impose government censorship on these platforms. The draft law provided that authorities could demand the concerned social media websites to take down content or block access to certain accounts. In case of refusal, the platforms would see their bandwidth reduced to the point where it would become unusable in the country.¹⁷ However, on 14 April, the AK Party removed the articles relating to the control and censorship of social media from the draft law. It is believed the articles were removed to facilitate the approval of the rest of the draft law, and that their withdrawal does not necessarily mean that the authorities do not still intend to impose restrictions on social media in time.¹⁸

The IBAHRI urges the Republic of Turkey to refrain from further restricting freedom of speech by blocking access to online social media, as it would constitute a violation of its duty to protect the right to freedom of expression as required by Article 19 of the International Covenant on Civil and Political Rights¹⁹ and Article 10 of the European Convention on Human Rights²⁰. The IBAHRI also condemns the continued abusive detention of tens of thousands of political prisoners, particularly in the current context of global pandemic, which further puts these prisoners' lives at risk, and is therefore tantamount to a contravention of its commitment under Article 12 of the International Covenant on Economic, Social and Cultural Rights,²¹ which proclaims the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

¹⁴ Mr Kavala's trial, along with 15 other defendants, took place before Istanbul 30th Assize Court. The IBAHRI and the International Commission of Jurists sent international observers to attend all hearings of the trial and continue to follow this issue.

¹⁵ The New York Times, 'From Prominent Turkish Philanthropist to Political Prisoner', 9 April 2020 www.nytimes.com/2020/04/09/world/middleeast/osman-kavala-turkey.html

¹⁶ BBC News, "Osman Kavala: Turkey 're-arrests' activist hours after acquittal", 18 February 2020 www.bbc.co.uk/news/world-europe-51550121

¹⁷ Human Rights Watch, 'Turkey Seeks Power to Control Social Media', 13 April 2020 www.hrw.org/news/2020/04/13/turkey-seeks-power-control-social-media

¹⁸ Reuters, 'Turkey's AK Party removes articles on social media regulation from draft law –opposition', 14 April 2020 www.reuters.com/article/turkey-security-socialmedia/turkeys-ak-party-removes-articles-on-social-media-regulation-from-draft-law-opposition-idUSL3N2C22PM

¹⁹ International Covenant on Civil and Political Rights www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

²⁰ European Convention on Human Rights www.echr.coe.int/Documents/Convention_ENG.pdf

²¹ International Covenant on Economic, Social and Cultural Rights www.ohchr.org/en/professionalinterest/pages/cescr.aspx

2. Privacy and surveillance

Many states are now determining freedom of movement for citizens by using their mobile phone data with little, if any, regard for their privacy. Although this sort of measure may be supported to halt the spread of the virus, it is lethal for a significant proportion of the population. The implementation of such technological powers 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 privacy campaigners, activists and lawyers globally are 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. Earlier this month, Amnesty International, along with 100 other organisations, issued a statement calling for limits on this kind of surveillance²². 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.

Azerbaijan

On 5 April 2020, new restrictions were introduced in Azerbaijan, requiring citizens to obtain an electronic permit in order to leave their home. Requests for an electronic permit can be made via a free SMS message and are granted for one of three reasons (i) visiting a doctor, (ii) visiting a pharmacy, shop, bank or post office, or (iii) attending a funeral of a relative. Once approved, the permit allows citizens to leave their house for a period of two hours. Only one permit will be issued per citizen, per day. While the SMS message to request a permit is free of charge, many mobile phone numbers have been blocked due to outstanding debts to the operators, which could lead to a disproportionate impact on the poorest citizens of the state.

Certain professions within state agencies, private legal entities and diplomatic missions do not require the permit. Freedom of movement is granted to them once registration with a government portal has taken place. There is also apparently no need for a permit in cases of emergency that pose a threat to health and safety. However, there have been reports of individuals who are also members of the

²² 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

opposition, the Azerbaijan Popular Front Party (APFP), who successfully obtained permits to leave home and were then arrested or charged with violating lockdown rules. In the case of APFP member Nigat Abdullayev, electronic authorisation had been produced in court and despite the judge dismissing the charge, he was sentenced to 30 days detention for resisting the charge, a claim that is strongly denied²³. On 10 April 2020, APFP activist Ruslan Amirov was arrested while taking his child to the hospital, an act which required an electronic permit, which was produced for the judge in court. However, Mr Amirov was still sentenced to 30 days for violating the lockdown²⁴.

Further, there have been reports of fraud and falsified permits. On the 8 April 2020, a spokesman for the Council of Ministers, Ibrahim Mammadov announced that two people had been arrested for selling permits to journalists, and to date, 3,037 Azerbaijani citizens had administrative actions taken against them for breaching the quarantine regime²⁵. Digital rights defenders recognise that a strict quarantine regime is needed to combat coronavirus transmission. Nevertheless, Az-Netwatch, a portal covering freedom of information in Azerbaijan, has recently reported the lack of transparency in the electronic permit system. It is unclear whether the authorisation SMS can be used to track the mobile device, how the users' personal information is protected, or what will happen to this information once the quarantine is lifted.

Azerbaijan is the first country to require its citizens to request permission to leave the house. IBAHRI finds this level of surveillance particularly disconcerting given the current backdrop of mounting restrictions on freedom of expression in Azerbaijan. Deputy leader of the ruling New Azerbaijan Party Ali Ahmadov described the 'two viruses' that should be fought: Covid-19 and the 'political virus' of the opposition.²⁶ President Ilham Aliyev used his Nowruz spring holiday national address on the 19 March, to lambast the opposition. President Aliyev has openly indicated that the state's approach to managing the coronavirus outbreak, including imposing fines or up to 30 days' detention for violating the lockdown regime, will facilitate a 'cleaning up... from traitors and representatives of the fifth column', alluding to the political opposition and critics, who use platforms 'on social networks' to criticise the government, and at present its response to handling of the virus, are indeed 'enemies' of the state. President Aliyev indicated that the pandemic is being used to alter citizen-executive and executive-opposition relationships: 'during the existence of the disease, the rules of completely new relationships will apply. Let everyone know this'.²⁷

On 18 March 2020, an amendment clause on 'information-telecommunications network' to the Law on Information, Informatisation and Protection of Information was approved at first reading. While there is no definition of what the 'information-telecommunication network' clause means, media experts have suggested that it refers to social media platforms and users. The Azerbaijani Ministry of

²³ HRW, 'Azerbaijan: Crackdown on Critics Amid Pandemic,' 16 April 2020 www.hrw.org/news/2020/04/16/azerbaijan-crackdown-critics-amid-pandemic

²⁴ HRW, n23

²⁵ Trend, 'Some Azerbaijani residents violate quarantine rules even after introducing permitting system,' 8 April 2020 <https://en.trend.az/azerbaijan/society/3220159.html>

²⁶ Morning Star, 'Azerbaijan uses Covid-19 to crack down on opposition, 13 April 2020 <https://morningstaronline.co.uk/article/w/azerbaijan-uses-Covid-19-crack-down-opposition>

²⁷ Osservatorio balcani e caucaso transeuropa, 'COVID-19, Aliyev spreads the message,' 23 March 2020 www.balcanicaucaso.org/eng/Areas/Azerbaijan/COVID-19-Aliyev-spreads-the-message-200323

Transportation, Communication, and High Technologies already has the power to block websites without a court order. The IBAHRI is closely monitoring the situation in Azerbaijan as the recent amendments and introduction of permits could lead to surveillance and the misuse of citizens private data, as well as further deteriorating freedom of speech online, with social media users posting content deemed to be misinformation by the ministry may be arrested and face charges.²⁸

Israel

In Issue One of this Bulletin, the IBAHRI reported on how the Israeli Supreme Court had halted the use of surveillance software created by Shin Bet, Israel's security agency, to monitor Covid-19 patients. On 19 March 2020, the Supreme Court announced that it would scrap the programme if the Knesset, the legislative branch of the Israeli government, did not formally approve and oversee it. However, on 31 March 2020, the Knesset committee approved the controversial measure, extending Shin Bet's powers for the purpose of halting the spread of the disease until the 30 April 2020²⁹. An issue of primary concern expressed during the discussions was whether the NSO Group would be given a role in the surveillance or storing of surveillance information on citizens, which received mixed answers from government officials. Government approval of an extension to aspects of existing Shin Bet Law continues to be the legal basis for extending the surveillance programme. Had the Knesset passed its own new law unique to the coronavirus period, privacy campaigners may have been reassured that these extensions were not here to stay. Nevertheless, the committee found that the government decision would have less of a lasting impact in terms of legal changes³⁰. The IBAHRI urges governments contracting companies for surveillance services at this time to ensure that they coordinate to identify and mitigate any risk in protecting human rights, with regard to the eight conditions mentioned above.

China

As the City of Wuhan emerges from lockdown, residents have only been allowed to re-enter the City's economy if they have downloaded an app that corresponds to their health status and shares their risk and history of carrying Covid-19. Users must enter their Chinese identification number, phone number, residential address, place of work, when, where and how they entered the region, their local address and the purpose of their trip. Following this, they are required to answer a series of health-related questions relating to Covid-19. This information is used to generate a health status that follows a traffic-light code; green allowing freedom of movement, amber requiring a seven-day quarantine and red requiring the individual to quarantine for 14 days.

Principal concerns include the lack of transparency as to how the information of users will be held and managed, and how colours in the coding system are awarded. The app has been rolled out in more than 200 cities and is powered by the mobile payment app, Alipay. The code is visible to all users of the app, however a report by the New York Times found that this data is also being shared with police

²⁸ Osservatorio balcani e caucaso transeuropa, n27

²⁹ The Times of Israel, 'Knesset panel okays controversial phone tracking by Shin Bet to fight virus,' 31 March 2020 www.timesofisrael.com/knesset-panel-okays-controversial-phone-tracking-by-shin-bet-to-fight-virus/

³⁰ The Jerusalem post, 'Knesset to approve Shin Bet surveillance of coronavirus-infected citizens,' 31 March 2020 www.jpost.com/Israel-News/Knesset-to-approve-Shin-Bet-surveillance-of-coronavirus-infected-citizens-623082

authorities³¹. Each user's location, city name and an identifying number is sent to a server that is thought to belong to the authorities. This direct method of data sharing makes it easier of the Chinese government to track its citizens in an unprecedented way. Human Rights Watch China director, Sophie Richardson, stated that this is 'yet another way to gather information about people and potentially use it against them in ways which there's no legal basis'.³²

South Korea

South Korea has earned international plaudit for its highly effective response to containing the Covid-19 pandemic by coupling surveillance with mass testing. Mass testing, smartphone location tracking and cashless transactions have formed crucial components of the country's battle to eliminate the coronavirus. The Infectious Disease Control and Prevention Act (IDCPA) allows authorities to implement a broad range of surveillance powers, raising questions about the necessity and proportionality³³ of such measures. South Korea has the highest use of smartphones of any modern economy, meaning the location-based emergency messages alerting owners they are near a confirmed Covid-19 case reach nine out of ten people, and it is not possible to 'opt out' of these messages. The text message reveals the individual's gender, age, anonymous code, and where they have been. The right to privacy is threatened as, via location monitoring, the traced path of an infected individual could ultimately reveal their identity.

Publically available location history has resulted in exaggerated speculations that have proved highly distressing for individuals. In one case, a woman was accused of insurance fraud on the internet after a glitch showed her at work, attending a wedding and having hotel lunches despite being hospitalised from injuries obtained in car accident she was involved in weeks before. Reporters from television networks managed to track her down and she was able to deny the allegations publically³⁴. Mass surveillance in South Korea has inadvertently resulted in a social stigma around the virus, and online witch hunts have created an atmosphere of fear; a South Korean doctor admitted that their patients 'were more afraid of being blamed than dying of the virus'.³⁵ In addition, the IDCPA requires data collected to 'be destroyed without delay when the relevant tasks have been completed' however, it is unclear as to what the relevant task amounts to, and how it is measured. Although South Korea is managing the virus, and its surveillance methods can be attributed to this outcome, the state must ensure that methods are under continuous review and compliant with human rights, in particular the right to freedom of expression and privacy.

³¹ The New York Times, 'In Corona Fight, China Gives Citizens a Color Code, With Red Flags,' 1 March 2020 www.nytimes.com/2020/03/01/business/china-coronavirus-surveillance.html

³² ABC News, 'China rolls out software surveillance for the COVID-19 pandemic, alarming human rights advocates,' 14 April 2020 <https://abcnews.go.com/International/china-rolls-software-surveillance-Covid-19-pandemic-alarming/story?id=70131355>

³³ Wired, 'Fighting Covid-19 Shouldn't Mean Abandoning Human Rights,' 9 April 2020 www.wired.com/story/opinion-fighting-covid-19-shouldnt-mean-abandoning-human-rights/

³⁴ The Guardian, "'More scary than coronavirus': South Korea's health alerts expose private lives," 6 March 2020 www.theguardian.com/world/2020/mar/06/more-scary-than-coronavirus-south-koreas-health-alerts-expose-private-lives

³⁵ Lee Su-young, Psychiatrist at Myongji Hospital, South Korea quoted in Raskar et al., "Apps Gone Rogue: Maintaining Personal Privacy in an Epidemic," PrivateKit MIT Whitepaper, 19 March 2020 <https://arxiv.org/abs/2003.08567>

India

In India, authorities are required to mark individuals arriving into the country with indelible ink that shows the date that the person must remain under quarantine and includes a symbolic gesture that marks that the person is 'proud to protect' their fellow citizens³⁶. The hand stamps have been used in tandem with mobile phones, reservation data from airlines and railways to track suspected citizens who may be infected and once identified, personal information has been known to be placed in the public domain³⁷.

In Southern Kerala, authorities have accessed telephone call records, CCTV footage and mobile phone GPS to track down primary and secondary Covid-19 positive patients. Detailed maps of the movements of those who tested positive have also been made public by the Indian authorities³⁸. India has a population of 1.3 billion people and a public health system with varying standards across the country, so containment measures are essential in order to save lives. The Public's Health Movement has called these measures 'arbitrary and reactionary' that 'would instead cause fear, isolation and stigmatisation'³⁹ in a letter to the national minister of health⁴⁰, urging the government to stop these measures and respect the privacy and confidentiality of those affected by Covid-19.

On 6 April 2020, India launched the Aarogya Setu app, created to track the movement of the user through their smartphone and report on their proximity to other app users. The app uses the permission to access a smartphone's GPS and Bluetooth technology to generate status reports about the phone's user and their proximity to other users, which is a far more sophisticated form of surveillance. Prime Minister Narendra Modi stated that the app was 'an important step in our fight against Covid-19'⁴¹. Reports have claimed that the pandemic has presented 'an opportunity to test run India's burgeoning digital state surveillance'⁴². Privacy activists and groups have raised concerns over the apps' compliance with the universal privacy standards, while also recommending privacy prescriptions for these technology-based interventions. The Indian digital liberties organisation, Internet Freedom Foundation, note how the new app may inadvertently discriminate against regions, which have fewer concentrations of smartphones. They have also called for encryption of all data,

³⁶ Al-Jazeera, 'Privacy fears as India hand stamps suspected coronavirus cases,' 20 March 2020 www.aljazeera.com/news/2020/03/privacy-fears-india-hand-stamps-suspected-coronavirus-cases-200320120033460.html

³⁷ Peoples Health Movement – India, 'Jan Swasthya Abhiyan,' 23 March 2020 <http://phmindia.org/wp-content/uploads/2020/03/jsa-breach-confidentiality.pdf>

³⁸ Reuters, 'Privacy fears as India hand stamps suspected coronavirus cases,' 20 March 2020 www.reuters.com/article/us-health-coronavirus-privacy/privacy-fears-as-india-hand-stamps-suspected-coronavirus-cases-idUSKBN21716U

³⁹ HRW, 'India: COVID-19 Lockdown Puts Poor at Risk,' 27 March 2020 www.hrw.org/news/2020/03/27/india-Covid-19-lockdown-puts-poor-risk

⁴⁰ Peoples Health Movement – India, n37

⁴¹ Narendra Modi, "Aarogya Setu is an important step in our fight against COVID-19. By leveraging technology, it provides important information. As more and more people use it, it's effectiveness will increase. I urge you all to download it." [Twitter] 8 April 2020 <https://twitter.com/narendramodi/status/1247816258571165697>

⁴² The Diplomat, 'COVID-19 Boosts India's Growing Surveillance State,' 14 April 2020 <https://thediplomat.com/2020/04/Covid-19-boosts-indias-growing-surveillance-state/>

comprehensive evidence-based justifications for use of the data and strict time limits in relation to the collection and duration data can be held⁴³.

Iran

On 3 March 2020, the Iranian Government released AC19, an app claiming to be designed by the Ministry of Health to detect the likelihood of people having coronavirus. Millions of Iranian citizens were told they could keep themselves and their loved ones safe by avoiding unnecessary hospital trips and downloading this app, which attempted to 'reach clinical decisions by asking a few medical questions'. The AC19 app has been removed from the Google Play Store because of its misleading claim that it could detect Covid-19 infections, an impossible claim as patients suspected of carrying the virus are tested by a microbiological analysis using a throat swab⁴⁴.

While an app cannot tell users if they test positive for the coronavirus, it can harvest huge amounts of data on them. AC19 asks for users' names, addresses, dates of birth, as well as health-related questions, and it prompts users to share their live location with the Iranian government. The prompt is part of the Android system, and so users that have not altered the default setting on the system will receive the prompt in English, not Farsi, meaning the vast majority of users will not be aware of exactly what they are being asked. Furthermore, the 40% of Iranian Android users with an older model will not be prompted at all, meaning their real-time location data is being shared without their knowledge.⁴⁵

The Iranian Government is proud of how many citizens are using the app and encouraged its use. ICT Minister MJ Azari Jahromi claimed that at least 3.5 million people have begun sharing this intimate information with the government. The IBAHRI is concerned that the AC19 app has been launched at a time of widespread confusion in Iran over the extent and threat of Covid-19 as there remains speculation on the confirmed cases and death rate. The Iranian government has been accused of covering up infection and death rates, with real figures being exponentially higher.⁴⁶ The extensive surveillance made possible through the AC19 app looks to be taking advantage of the current lack of information circulating in Iran.

It has become common knowledge that the Covid-19 virus can be transmitted through close contact with other individuals, which has encouraged governmental efforts to contain the virus by closely monitoring citizen activities and behaviours.

⁴³ Internet Freedom Foundation, 'Is Aarogya Setu privacy-first? Nope, but it could be—If the government wanted #SaveOurPrivacy', 14 April 2020 <https://internetfreedom.in/is-aarogya-setu-privacy-first-nope-but-it-could-be-if-the-government-wanted/>

⁴⁴ ZDNet, 'Spying concerns raised over Iran's official COVID-19 detection app,' 9 March 2020 www.zdnet.com/article/spying-concerns-raised-over-irans-official-Covid-19-detection-app/

⁴⁵ VICE, 'Iran Launched an App That Claimed to Diagnose Coronavirus. Instead, It Collected Location Data on Millions of People.' 14 March 2020 www.vice.com/en_us/article/epgkmz/iran-launched-an-app-that-claimed-to-diagnose-coronavirus-instead-it-collected-location-data-on-millions-of-people

⁴⁶ Committee to Protect Journalists, 'Amid coronavirus pandemic, Iran covers up crucial information and threatens journalists,' 20 March 2020 <https://cpj.org/blog/2020/03/amid-coronavirus-pandemic-iran-covers-up-crucial-i.php>

Modern technology has allowed many people to carry a personal GPS tracking device with them wherever they go: their smartphone. This has made it possible for governments across the world to engage in sophisticated digital tracking surveillance to observe and enforce social distancing measures. Yet, the protection against arbitrary interference of a persons' privacy is a fundamental human right that must be protected by law⁴⁷. Some of the emergency measures taken by governments outlined in this section may well be argued to be proportionate, necessary and legitimate in light of the global health crisis. However, the IBAHRI remains concerned about the use of technology to track individuals on a large scale, which in times of a global pandemic may be adopted under the veil of necessity and rushed through legislative bodies without proper scrutiny, and could then lead to intrusive monitoring systems that are incompatible with international legal standards, human rights and freedoms in the long term.

⁴⁷ Universal Declaration of Human Rights, Article 12 www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng;
International Covenant on Civil and Political Rights Article 17 www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx

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, 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:

- Azerbaijan: Tofiq Yagublu remains in custody, and civil society organisations including Amnesty International continue to campaign for his release⁴⁸.
- Iran: Mohammad Mosaed, who was arrested on 22 February 2020 after criticising Tehran's lack of preparedness to deal with Covid-19, remains barred from any media interviews and posting on his Telegram channel. His case has been reported in the One Free Press Coalition's April list of 10 most urgent cases⁴⁹.
- Mexico: No arrests for the murder of Maria Elena Ferral Hernández have been made. Pressure is mounting on the Mexican authorities for a transparent and thorough investigation⁵⁰.
- Myanmar: U Nay Myo Lin was released from police custody on 9 April due to the lack of substance in the anti-terrorism charges brought against him. Myo Lin remains available to the authorities for questioning if needed⁵¹.
- Pakistan: Balochistan journalist Sajid Hussain is still missing and pressure is mounting on the Swedish authorities to escalate the search efforts.

Algeria

On 29 March 2020, Khaled Dranenis, journalist and editor of the Casbah Tribune website, and Algerian correspondent for Reporters Without Borders was arrested. Dranenis has been charged

⁴⁸ Amnesty International, 'Opposition Activist Detained, Health at Risk,' www.amnesty.org.uk/urgent-actions/opposition-activist-detained-health-risk

⁴⁹ The Straits Times, 'Iranian journalist arrested for criticising Teheran's handling of Covid-19 tops One Free Press Coalition's monthly list,' 14 April 2020 www.straitstimes.com/world/iranian-journalist-arrested-for-criticising-teherans-handling-of-COVID-19-tops-one-free-press

⁵⁰ AMMPE, Declaration about murder of journalist Maria Elena Ferral Hernández,' 4 April 2020 <https://ammpeworld.com/declaration-about-murder-of-journalist-maria-elena-ferral-hernandez/>

⁵¹ Myanmar Times, 'Police frees Myanmar journalist facing terror charge,' 9 April 2020 www.mmtimes.com/news/police-frees-myanmar-journalist-facing-terror-charge.html

with ‘inciting an unarmed gathering and endangering national unity’. An arrest of a journalist in connection of their work is a violation of article 50 of the Algerian constitution, which states that a press offence cannot be punished by imprisonment. Article 19, Human Rights Watch, Reporters Without Borders (RSF) and Index on Censorship are among the many international and Algerian NGO signatories who believe that Algerian authorities are abusing state powers in a time of fear and deep concern with the Covid-19 crisis to settle scores with independent journalism.⁵² Further, on 1 April 2020, three employees at the Essawt El-Akhar, a privately owned daily newspaper, were arrested on criminal charges of committing an ‘attack on national unity’ after a report on the Covid-19 crisis.⁵³ The arrest came after the publication of an article alleging that the official statistics on test results from patients with the virus were wrong. If convicted, the media workers could face up to 10 years each in prison.

Armenia

On 16 March 2020, the Armenian government declared a state of emergency, with the decree applying harsh restrictions and limitations to journalistic activities including a prohibition of the distribution of information not supplied by a governmental source. As soon as the state of emergency was declared, journalists complained about the restrictions, reporting that officials had forced them to change their stories or remove them. There was also a ban on reprinting information from international publications about celebrities/important figures who had contracted Covid-19. Ten journalistic organisations issued a joint statement calling on the government and the commandant office to ‘immediately nullify’ the restrictions on the media’s work. Public pressure mounted when officials started to break the law themselves; the Mayor of Hrazdan posted information about the first reported Covid-19 case in the city on social media, which he technically had no right to do. The government was forced to alter its position and since 7 April 2020 it has allowed for all publications relating to the epidemiological situation (number infected, quarantined, self-isolated) to be permitted. If the commandant’s office wishes to refute anything or clarify information, they have to do so within two hours. The IBAHRI welcomes this first step by the government of Armenia to rectify this situation, however, requests the state to review and remove any barriers impeding the freedom of speech and restricting the work of media workers at this unprecedented time.

Australia

In June 2019, the Australian Federal Police (AFP) raided the home of News Corp journalist Annika Smethurst. During the raid, the AFP took material relating to her reporting on secret plans to boost the Australian Signals Directorate’s (ASD) cyber capabilities to include domestic as well as overseas surveillance. In what has been summarised to be a pyrrhic victory for press freedom⁵⁴, the High

⁵² ARTICLE 19, Appel by NGOs and associations for Khaled Drarenis release, 3 April 2020
www.article19.org/resources/appeal-by-ngos-and-associations-for-khaled-drarenis-release/

⁵³ CPJ, “Three newspaper staffers charged with ‘attack on national unity’ over COVID-19 report in Algeria,” 6 April 2020
<https://cpj.org/2020/04/three-newspaper-staffers-charged-with-attack-on-na.php>

⁵⁴ The Canberra Times, ‘Smethurst decision a pyrrhic victory for journalist freedom,’ 15 April 2020
www.canberratimes.com.au/story/6724096/smethurst-decision-a-pyrrhic-victory-for-journalistic-freedom/

Court unanimously ruled that the AFP search warrant under which this raid was conducted was invalid and should be quashed. The High Court's decision to invalidate the warrant was based on confined grounds. The Court held that the warrant misstated the substance of the relevant section of the Crimes Act 1914, and that it failed to state, with sufficient precision, the offence to which it related.

As the Court quashed the warrant on drafting grounds, it did not need to consider other questions including the application of the implied freedom of political communication. This is not surprising as courts will often determine disputes on narrow grounds and avoid thorny constitutional questions where possible. On the whole, while this decision provides some good news for Ms Smethurst and is embarrassing for the AFP, its effect for media companies is limited and it provides no solace to those facing similar challenges in the future. Concerns remain over the powers that enabled the raid in the first instance, the Court's rejection of Smethurst's request to require the AFP to return her data and destroy any copies, and the lack of positive protections for public interest journalism in Australian law⁵⁵.

Belarus

On 25 March 2020, Siarhei Satsuk, investigative journalist, recognised for his reporting on corruption in the Belarus health care system and chief editor of the *Yezhnednevik* news website, was arrested on bribery charges. Two days before his arrest, Mr Satsuk published a story in relation to the Belarusian authorities' information cover-up related to the outbreak of coronavirus in the country.⁵⁶ On 31 March 2020, Belarusian authorities opened a criminal investigation under article 430 of the Belarusian criminal code for accepting bribes. If convicted, Mr Satsuk could face up to ten years in prison⁵⁷ for simply doing his job.

Chechnya

Earlier this week, reports of grave threats to the personal safety of journalist, Elena Milashina, reporting for independent newspaper outlet *Novaya Gazeta*, were made by the Chechnyan leader, Mr Ramzan Kadyrov. The serious remarks, delivered in a speech streamed live on Instagram and then later on his Telegram channel⁵⁸, blamed the Federal Security Service for not silencing Ms Milashina, 'if (the security services) want us to commit a crime and become criminals, then say so.

⁵⁵ Crikey, 'Memo from our lawyers to journos everywhere: Smethurst's win is a pyrrhic victory for freedom,' 17 April 2020 www.crikey.com.au/2020/04/17/memo-from-our-lawyers-to-journos-everywhere-smethursts-win-is-a-pyrrhic-victory-for-freedom/

⁵⁶ EJ, 'Сергей Сацук: Кто сеет панику вокруг коронавируса, президент или сайты и каналы?' 23 March 2020 <https://ej.by/blog/sergey-satsuk/2020/03/23/kto-seet-paniku-po-koronavirusu-prezident-ili-sayty-i-kanaly.html?fbclid=IwAR3HJUBoJIWRFtg-ccM-1IZ2IRRDp2eXMvKJPE6woZnFwjna30rYkkl9-rE>

⁵⁷ ARTICLE 19, 'Belarus: Release investigative journalist Siarhei Satsuk reporting about the coronavirus crisis,' 1 April 2020 www.article19.org/resources/belarus-release-investigative-journalist-siarhei-satsuk-reporting-about-the-Coronavirus-crisis/

⁵⁸ Meduza, 'Waiting on Chechnya's justice system – 'Novaya Gazeta' chief editor Dmitry Muratov responds to Ramzan Kadyrov's latest threats,' 16 April 2020 <https://meduza.io/en/feature/2020/04/16/waiting-on-chechnya-s-justice-system>

Someone will take the burden of responsibility and will be punished under the law'⁵⁹. This came in response to Milashina's report the day before, stating that quarantined Chechnyan citizens had stopped reporting Covid-19 symptoms for fear of being labelled 'terrorists'⁶⁰. In a telephone interview with the Committee to Protect Journalists (CPJ), Ms Milashina said she was 'really afraid, as Kadyrov's threats are really serious and he is a dangerous man. I know that if he really decides to kill me, he will do it'⁶¹. Milashina has appealed to the Investigation Committee of Russia and the prosecutor general's office, and to date has received no response. The IBAHRI is extremely concerned for the personal safety of Ms Milashina and strongly condemns the reckless statements made by the Head of the Chechen Republic.

Egypt

On 20 March 2020 Ruth Michaelson, a reporter for *The Guardian* newspaper, was forced to leave Egypt following intense pressure from authorities and the revocation of her press accreditation. Ms Michaelson lived in and reported from Egypt since 2015. Five days before the requested departure date, Ms Michaelson wrote an article that suggested Egypt has a higher rate of coronavirus cases than the official number provided by the government⁶². The report was based on research by infectious disease specialists from the University of Toronto and public health data in Egypt. Government officials including the chairman of the State Information Service (SIS), Daa Rashwan, accused Ms Michaelson, along with another journalist who had tweeted about the study, of misreporting and spreading public panic. SIS applied further pressure on Ms Michaelson through her visa, forcing her to make the decision to leave the country.⁶³ Media freedom in Egypt has continued to deteriorate since the military took power in 2013. The 2019 CPJ Annual Report revealed that 26 reporters were detained in Egypt that year, the most prosecuted in groups on charges of terrorism or reporting false news⁶⁴. The IBAHRI reiterates that journalists should be allowed to work in complete security, without fear of reprisal, undue interference or hindrance in reporting the truth, based on factual, reliable information.

Philippines

On 27 March 2020, Mario Bataigas, owner of the television station Latigo News TV, and *Amor Virata*, an independent online reporting outlet, was arrested on charges of spreading 'false information' about Covid-19 in the Philippines. This is the first charge brought under the expanded emergency measures, Bayanihan to Heal as One Act, section 6(6) that criminalises the dissemination of 'false

⁵⁹ Novaya Gazeta, 'Рамзан Кадыров — о «Новой газете». Без комментариев' 13 April 2020
<https://novayagazeta.ru/articles/2020/04/13/84881-ramzan-kadyrov-o-novoy-gazete-bez-kommentariiev>

⁶⁰ <https://novayagazeta.ru/articles/2020/04/12/84851>

⁶¹ CPJ, 'Chechen Leader threatens journalist Elena Milashina over COVID-19 reporting,' 15 April 2020
<https://cpj.org/2020/04/chechen-leader-threatens-journalist-elena-milashin.php>

⁶² The Guardian, 'Egypt: rate of coronavirus cases 'likely to be higher than figures suggest',' 15 March 2020
www.theguardian.com/world/2020/mar/15/egypt-rate-coronavirus-cases-higher-than-figures-suggest

⁶³ The Guardian, 'Egypt forces Guardian journalist to leave after coronavirus story,' 26 March 2020
www.theguardian.com/world/2020/mar/26/egypt-forces-guardian-journalist-leave-coronavirus-story-ruth-michaelson

⁶⁴ CPJ, 'China, Turkey, Saudi Arabia, Egypt are world's worst jailers of journalists', 11 December 2019
<https://cpj.org/reports/2019/12/journalists-jailed-china-turkey-saudi-arabia-egypt.php>

news⁶⁵. The new law, enacted on 24 March 2020, provides President Duterte emergency powers to contain the coronavirus outbreak in the Philippines. The convictions could result in a two-month prison term and one million peso (\$19,600) fine⁶⁶. On 1 April 2020, in a televised address, President Duterte publicly told the police that if citizens resist the terms of the quarantine, then to 'Shoot them dead'⁶⁷. The IBAHRI is closely monitoring the situation in the Philippines during this period where the executive has extended powers to ensure that opportunity to flout the rules relating to fundamental rights and freedoms are not abused.

Serbia

On 1 April 2020, Ana Lalic, a journalist for Serbian news portal, *Nova.rs*, was arrested on suspicion of publishing texts to cause panic and disorder. Ms Lalic was held in detention overnight, after her home was searched and equipment confiscated. The arrest came the same day she reported on the lack of available personal protective equipment (PPE) for hospital staff in the Clinical Centre of Vojvodina. The hospital refused Lalic's request for a comment before publication and reported Lalic to the police alongside filing a complaint against her for causing damage to the reputation of the hospital and upsetting the public⁶⁸. Ms Lalic is the first journalist to be arrested since the new regulation was introduced on 28 March 2020 that centralises the distribution of information on the coronavirus to the Prime Minister's office or individuals authorised by the Crises Management Taskforce in Serbia. This regulation is part of the state of emergency framework that has been built to manage the current health crisis. On 2 April 2020, Serbian Prime Minister Ana Brnabic accepted that the regulation was to be revoked at the express request of President Aleksandar Vucic. This came as a result of pressure from OSCE Representative on Freedom of the Media, Harlem Désir⁶⁹, and the Head of the OSCE Mission to Serbia, Andrea Orizo, who highlighted the breach of international human rights standards on freedom of expression⁷⁰ and is welcomed by the IBAHRI.

Venezuela

Darvinson Rojas, a freelance journalist, was detained on 23 March 2020 on charges of 'advocacy of hatred' and 'instigation to commit crimes'. Special Action Forces of the National Police (FAES) agents took Mr Rojas into custody on bogus claims that he had tested positive for the coronavirus. During

⁶⁵ CNN Philippines, 'Cavite town mayor faces criminal charges for fake reports on COVID-19 case,' 28 March 2020 www.cnnphilippines.com/news/2020/3/28/cavite-town-mayor-charges-fake-COVID-19-reports.html

⁶⁶ CPJ, 'Two reporters charged for spreading 'false information' about COVID-19 in the Philippines,' 3 April 2020 <https://cpj.org/2020/04/two-reporters-charged-for-spreading-false-informat.php>

⁶⁷ TIME, 'Maria Ressa: We Can't Let the Virus Infect Democracy,' 14 April 2020 <https://time.com/5820620/maria-ressa-Coronavirus-democracy/>

⁶⁸ ARTICLE 19, 'Serbia: Journalist Ana Lalic arrested for reporting on inadequate hospital facilities for coronavirus,' 2 April 2020 www.article19.org/resources/serbia-journalist-ana-lalic-arrested-for-reporting-on-inadequate-hospital-facilities-for-Coronavirus/

⁶⁹ Member of the External Advisory Committee (EAC) supporting the High Level Panel of Legal Experts on Media Freedom.

⁷⁰ OSCE, 'OSCE Media Freedom Representative and OSCE Head of Mission to Serbia stress importance of free access to information, following new Government decision,' 1 April 2020 www.osce.org/representative-on-freedom-of-media/449494

interrogations, Mr Rojas was asked about the source of his reporting on the coronavirus outbreak in Miranda, which he had previously reported on Twitter⁷¹. Rojas was granted bail on 2 April 2020 and a full criminal investigation is pending. Human rights organisations, including Amnesty International, consider the charges to be politically motivated and an attempt to silence Mr Rojas' reporting on the Covid-19 pandemic in Venezuela⁷².

⁷¹ CPJ, 'Venezuelan journalist arrested by special forces following coronavirus coverage,' 22 March 2020 <https://cpj.org/2020/03/venezuelan-journalist-arrested-by-special-forces-f.php>

⁷² Amnesty International, 'Venezuela: prisoner of conscience remains on trial,' 3 April 2020 www.amnesty.org/en/documents/amr53/2096/2020/en/

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.

Iraq

On 2 April 2020, the Iraqi Communications and Media Commission took the decision to suspend Reuters' operating license in the country, following a report by the news organisation highlighting a gap between official numbers reported by the Iraqi government and the real number of Iraqi people infected with Covid-19.

The Reuters' report alleged that Iraq had thousands of confirmed Covid-19 cases, while the government had stated only 772 infected patients at that time. Therefore, the report was interpreted as implying a deliberate falsification by the government, which they deny. Reuters' report was based on information provided by three Iraqi doctors involved in the testing process, an official from the health ministry, as well as a senior political official⁷³.

The Iraqi Communications and Media Commission, an independent state agency charged with regulating the media, has revoked Reuters' licence for three months, fined it 25 million Iraqi dinars (around \$21,000) and demanded the news agency issues an apology. It has justified the action by invoking the seriousness of the current circumstances and the challenge to societal health and safety already posed by the pandemic⁷⁴. President Barham Salih is reportedly working to 'revoke' the suspension of the organisation's operating license and reinstate it. Although he called the decision to suspend regrettable, he reiterated that there had been no falsification of records by the government, and that the discrepancy in numbers could be explained, like in other countries, by the state's late start in terms of active surveillance and testing.⁷⁵

The IBAHRI regrets the suspension of Reuters' license in Iraq, as it constitutes a hindrance in the free flow of information necessary in democratic societies, and particularly so in the context of the Covid-19 pandemic, as global access to accurate information is key to curbing the spread of the virus. Therefore, the IBAHRI supports the efforts of President Barham Salih aiming to restore Reuters' operating license, for the sake of the public's right to know, their right to freedom of expression and to health, as well as the requirements of a democratic republic.

⁷³ The Guardian, 'Iraq suspend Reuters licence over report disputing Coronavirus figures', 15 April 2020
www.theguardian.com/world/2020/apr/15/iraq-suspends-reuters-licence-over-report-disputing-coronavirus-figures#maincontent

⁷⁴ FRANCE 24, 'Iraq suspends Reuters for three months over report on COVID-19 cases', 14 April 2020
www.france24.com/en/20200414-iraq-suspends-reuters-for-three-months-over-report-on-COVID-19-cases

⁷⁵ CNN, 'Iraqi President working to reinstate Reuters after suspension', 15 April 2020
<https://edition.cnn.com/2020/04/14/middleeast/iraqi-president-reuters-suspension-intl/index.html>

China

The diplomatic duel continues between the People's Republic of China and the United States of America, as Donald Trump announced a suspension of the US funding to the World Health Organization. The US President accused the WHO of willingly taking China's assurances at the beginning of the crisis and defending the actions of the Chinese government, which is accused of trying to cover up the outbreak of the virus in Wuhan^{76, 77}.

The decision on 17 March 2020 by the Chinese government to expel American journalists working for *The New York Times*, *The Wall Street Journal* and the *Washington Post* came as a retaliation to the 18 February 2020 decision by the US State Department to restrict the right of employees of several Chinese news organisations to work in the US. The IBAHRI has condemned the expulsion of these journalists, as they indicate 'a worrying disregard for the necessity in democratic systems to implement transparency and allow the press to operate independently and freely'.⁷⁸

However, the 'media-war' continues, as some Western media (including *The Wall Street Journal*, the *Washington Post* and *The New York Times*, and now *The Daily Telegraph*) have progressively ceased to update or print their 'China Watch' sections over the last year. These Chinese-centred sections, paid for by China, were used to spread a positive image of the country through Western media. Since the start of the pandemic, *The Daily Telegraph* deleted several sections on its website that reproduced material from China's official state outlet: *The People's Daily*, and traded them for pieces critical of China. Further, the three American news outlets whose journalists were expelled from China are the very same who eventually stopped issuing those sections meant to present China in a good light.⁷⁹

This discursive confrontation opposing Chinese and Western establishments and media appears to be focused on assigning blame and avoiding responsibility for the late governments' responses to the crisis, or any failure or lack of adequate measures aimed at curbing the spread of the virus. One cannot fail to observe an increasingly worrying trend that consists in pointing fingers and seeking convenient scapegoats, providing governments with the opportunity to evade responsibility for their shortcomings as well as using the coronavirus pandemic for political posturing. This can only result in further exacerbating people's lack of trust in their political establishments and the media, which in turn may erode the credibility of democratic values universally. In such times, all actors should rather favour international cooperation and global equal access to accurate, reliable and scientific facts and information. This is facilitated in environments where media pluralism is recognised and upheld, as it enables citizens to learn, confront ideas, make informed decisions and thus fulfil, not only their civic duties, but also their individual responsibility in the current context of pandemic.

⁷⁶ Access the IBA Article on the Wuhan Whistleblowers, 09/04/2020

www.ibanet.org/Article/NewDetail.aspx?ArticleUid=d0e01d66-e92a-419a-b0e0-2a1732341fad

⁷⁷ BBC News, 'Coronavirus: US to halt funding to WHO, says Trump', 15 April 2020 www.bbc.co.uk/news/world-us-canada-52289056

⁷⁸ IBAHRI www.facebook.com/IBAhumanrights/posts/the-ibahri-condemns-the-decision-of-17-march-2020-by-the-chinese-government-to-e/2731847663594878/

⁷⁹ The Guardian, 'Daily Telegraph stops publishing section paid for by China', 14 April 2020 www.theguardian.com/media/2020/apr/14/daily-telegraph-stops-publishing-section-paid-for-by-china

India

Many have found it alarming that the Indian government has adopted an impervious and evasive strategy as to the role of the media and journalists in reporting on the Covid-19 crisis. To date, the government has failed to hold an open press conference or accept questions from journalists relating to the pandemic and their handling of it. This is especially concerning as doubt has been cast over the government's claim that there has been no community transmission of coronavirus.

In late March 2020, the government sought a directive from the Supreme Court to stop news outlets from publishing any Covid-19-related news without clearance from the government. The Supreme Court denied the request⁸⁰, which raises further concerns about the government's handling of this serious risk to public health and their commitment to providing accurate and reliable information in line with the public's right to know. Set out in the Right to Information Act of 2005, governmental departments are compelled to provide official information in the form of records and/or documents to citizens when specific requests are made, the government's approach suggests they are trying to control the narrative of the pandemic.

The surge in the number of confirmed Covid-19 cases in India was incorrectly linked by police and government to an annual two-day convention of the Muslim sect Tablighi Jamaat on 13 March 2020, where roughly 3,500 people gathered. Almost 2,000 stayed in the area for days afterwards, and the area has since become the coronavirus hotspot of India. The outbreak from the gathering exacerbated religious tensions, following the religious pogroms in February 2020, which resulted in 50 deaths. Shortly after this link was made, disinformation stating that Muslims were responsible for the spread of the virus began to emerge across Indian media and social networking channels, and the hashtag 'Corona Jihad' trended on Twitter. Muslims have since seen their businesses across India boycotted and posters have appeared barring them from entering certain neighbourhoods in states as far apart as Delhi, Karnataka, Telangana and Madhya Pradesh. Kapil Mishra, a local BJP leader, tweeted: 'Tablighi Jamaat people have begun spitting on the doctors and other health workers. It's clear, their aim is to infect as many people as possible with coronavirus and kill them'⁸¹.

The IBAHRI is particularly concerned about the quick spread of harmful disinformation and the support from members of government for these false narratives that serve to incite violence and heighten religious tensions. This follows the government's recent request to social media platforms Facebook and TikTok to remove users found to be spreading misinformation about the coronavirus. This follows concerns about videos intended to mislead Muslims into not following governmental advice to protect themselves and others against the spread of the virus⁸². Given their vastly different responses to the two issues, the IBAHRI is troubled by the weaponisation of the virus to incite further anger towards the Muslim community, who have been subjected to numerous attacks amid increased tensions since the passing of Citizenship Amendment Act in December 2019. Equality Labs, a US-based south Asian human rights organisation researching Islamophobic hate speech, released a statement urging the World Health Organization to 'issue further guidelines against Covid-19 hate speech and disconnect it

⁸⁰ CPJ, 'Indian Supreme Court denies government request for prior censorship of COVID-19 news,' 31 March 2020 <https://cpj.org/2020/03/indian-supreme-court-denies-government-request-for.php>

⁸¹ The Guardian, 'Coronavirus conspiracy theories targeting Muslims spread in India,' 13 April 2020 www.theguardian.com/world/2020/apr/13/Coronavirus-conspiracy-theories-targeting-muslims-spread-in-india

⁸² Reuters, 'India asks TikTok, Facebook to remove users spreading coronavirus misinformation,' 7 April 2020 www.reuters.com/article/us-health-coronavirus-india-socialmedia/india-asks-tiktok-facebook-to-remove-users-spreading-coronavirus-misinformation-idUSKBN21P2QI

to religious communities'⁸³. The IBAHRI urges the Indian government to work with social media companies to stop the spread of harmful disinformation related to Muslims and the pandemic and to adopt the same protections for all its citizens away from discriminatory rhetoric.

Puerto Rico

On 6 April 2020, Governor Wanda Vázquez signed an amendment to the Public Security law (Law No.35-2020 'To amend Section 6.14 of Act 20-2017'⁸⁴). The amendment provides a punishment of six months in jail and a \$5,000 fine for violating the imposed curfew, or any future curfew. It also makes it illegal for a media outlet or a social media account to transmit or allow the transmission of 'false information' with an intent to create confusion, panic or 'public hysteria' with regards to any proclamation or executive order declaring an emergency, disaster or curfew. Authorities have justified the measures by arguing that there were still too many people not complying with the stay-at-home order, as 275 people were reportedly arrested and 482 people cited or charged since the beginning of the quarantine.⁸⁵ The American Civil Liberties Union is seeking an injunction against Puerto Rico's strict curfew, arguing that 'emergency states cannot be used to suspend fundamental rights'⁸⁶.

Authorities have recently been accused of taking a step further in restricting freedom of expression for journalists, by allegedly refusing to allow outside journalists to participate in 'coronavirus task force briefings'. Journalists were initially invited to participate in these briefings hosted by government-owned television station WIPR-TV and ask questions to the administration concerning their response to the pandemic. The network initially alleged that this decision followed instructions from the authorities to ban journalists from three weekly briefings, while government officials have claimed that this decision was taken by WIPR alone without governmental instruction.

The local government has come under fire for its management of the crisis: the island has successively had three different health secretaries in three weeks. As of 7 April, only 4,539 tests had been conducted on a population of 3.2 million. Authorities ordered one million Covid-19 tests from two companies for a price of \$38 million, however it soon became evident that the tests were unusable as they were not approved by the Food and Drug Administration.

Iran

In an open letter to the Iranian President, Hassan Rouhani, 136 Iranian journalists demanded the government respond to the recent week-long ban on print and distribution of newspapers across the country under the pretext of preventing the spread of Covid-19. The Covid-19 National Management Office (the government body set up to combat the coronavirus) and the press department of the Ministry of Culture and Islamic Guidance issued the notice of this measure, which lasted from 20 March to 2 April 2020 on the basis of social distancing 'the distribution of printed newspapers and

⁸³ The Guardian, n81

⁸⁴ Ley 35 del 5 de abril de 2020, Para enmendar el Artículo 6.14 de la Ley 20-2017
<https://sutra.oslpr.org/osl/esutra/Prontuario.aspx?rid=135578>

⁸⁵ Miami Herald, 'Critics blast Puerto Rico 'dictatorial decree' as Coronavirus claims youngest victim', 7 April 2020
www.miamiherald.com/news/nation-world/world/americas/article241824361.html

⁸⁶ Legal Reader, 'The ACLU says that Puerto Rico's curfew is vague, leaving too much open to interpretation', 5 April 2020
www.legalreader.com/aclu-injunction-puerto-rico-strict-Coronavirus-curfew/

magazines requires physical interaction between individuals, journalists, printers and distributors, and this interaction could potentially facilitate the spread of the virus'⁸⁷ and urged newspapers to publish online and on social media.

As a consequence of this extreme measure, numbers of newspapers outlets were forced to close down, resulting in significant numbers of journalists being laid off. The letter calls on the government to provide remedy and financial assistance to media workers who have lost income during a period of grave uncertainty. The IBAHRI stands in solidarity with all journalists and media workers who are facing extreme practical working challenges at this time, nonetheless in environments where an atmosphere of constant fear and intimidation for media professionals subsists. The IBAHRI condemns the Iranian government's severe persecution of journalists and media workers who have published information about the coronavirus epidemic that lacked official approval, and encourages the government to implement measures to preserve media independence⁸⁸ and stop the intimidation and harassment of citizen journalists.

⁸⁷ RSF, 'Iran: Press freedom violations recounted in real time January 2020,' 16 April 2020 <https://rsf.org/en/news/iran-press-freedom-violations-recounted-real-time-january-2020>

⁸⁸ IranWire (Persian) 'Naamey-e Sargoshaadeh Rooznaamenegaran be Raees Jomhoor ..' 13 April 2020 <https://iranwire.com/fa/jinac/37750>

5. Digital rights and internet shutdowns

Governments that are currently imposing an internet shutdown in states include Ethiopia, Jammu and Kashmir, Bangladesh, and Myanmar⁸⁹, therefore restricting the flow of information during the Covid-19 global crisis.

Ethiopia

The IBAHRI welcomes the decision in Ethiopia to lift the blanket ban on telephone and internet services imposed in Western Oromia from early January 2020 to 31 March 2020⁹⁰. For months, international and local aid groups were unable to monitor the Covid-19 outbreak or provide assistance to the Oromo people, caught between the Ethiopian army and the rebel Oromo Liberation Front⁹¹. It was feared that the ban would prevent key information about the virus from reaching people in Western Oromia, including people essential to the fight against the disease, such as health care and humanitarian workers.⁹² The end of this communication ban is bound to help facilitate the state's response to Covid-19, the success of which evidently depends on the free flow of relevant scientific information relating to the virus.

However, the country still lacks a comprehensive set of laws regulating internet use, which has led some to believe that internet shutdowns have become a 'go-to' solution for the government to solve political crises.⁹³ It should be reiterated that the Human Rights Council highlighted the importance for states to apply a comprehensive human rights-based approach in providing and expanding access to the internet. The HRC also called upon states to consider, through transparent and inclusive processes with all stakeholders, formulating and adopting national internet-related public policies that have the objective of universal access and enjoyment of human rights at their core⁹⁴.

On 8 April 2020, the Council of Ministers declared a nationwide state of emergency in order to curb the spread of the disease. Like few other countries, Ethiopia has set a clear end-date for emergency power – a commendable initiative as it means that a formal discussion will be required concerning an eventual renewal of the state of emergency.⁹⁵

On 11 April, the authorities issued a decree under the emergency powers, where public gatherings are limited to a maximum of four people, the right of suspects to appear before a judge within 48 hours of their arrest is suspended, and the government is granted power to order companies to reorient their services or production towards tackling Covid-19. The country's record of abuse of emergency

⁸⁹ Human Rights Watch (HRW), 'End Internet Shutdowns to Manage COVID-19', 31 March 2020 www.hrw.org/news/2020/03/31/end-internet-shutdowns-manage-COVID-19

⁹⁰ HRW, 'COVID-19 – A Human Rights Checklist', April 2020, p2 www.hrw.org/sites/default/files/supporting_resources/202004_northamerica_us_covid19_checklist_0.pdf

⁹¹ Ethiopia Insight, 'Amid blackout, western Oromia plunges deeper into chaos and confusion,' 14 February 2020 www.ethiopia-insight.com/2020/02/14/amid-blackout-western-oromia-plunges-deeper-into-chaos-and-confusion/

⁹² HRW, 'Millions of Ethiopians Can't Get COVID-19 News', 20 March 2020 www.hrw.org/news/2020/03/20/millions-ethiopians-cant-get-COVID-19-news

⁹³ Kichuu Information, 'How internet shutdowns have affected the lives of millions of Ethiopians', 2 April 2020 <https://kichuu.com/how-internet-shutdowns-have-affected-the-lives-of-millions-of-ethiopians/>

⁹⁴ Resolution on The promotion, protection and enjoyment of human rights on the Internet, 27 June 2016, UN Human Rights Council Res A/HRC/32L.20 www.article19.org/data/files/Internet_Statement_Adopted.pdf

⁹⁵ HRW, n26 p7

powers, which have previously resulted in mass arrests, torture and censorship, has raised concerns over whether the Ethiopian government would be kept in check by the requirements of necessity and proportionality⁹⁶.

As required by Article 93 of the Ethiopian Constitution, a 'State of Emergency Inquiry Board' comprising of members of Parliament and legal experts has been established, and is charged with ensuring that the names of all individuals arrested on account of the state of emergency are made public along with the reasons for their arrest. The board oversees the government's actions to ensure that no measure taken during the state of emergency is inhumane by recommending corrective measures to the Prime Minister or to the Council of Ministers. It also oversees the prosecution of perpetrators of inhumane acts and submits its opinion to the lower chamber of Parliament on requests to extend the duration of the state of emergency.⁹⁷

Ethiopia has made positive steps towards building a transparent and appropriate response to the spread of the coronavirus, by putting an end to a communication ban that would have severely hindered the fight against the disease and by setting a formal time limit for the government use of emergency powers. The IBAHRI urges Ethiopia to refrain from abusing the powers granted by the state of emergency, and to keep true to its human rights-centred approach to fighting the Covid-19 pandemic.

Kashmir

The ban on high-speed internet in the Indian occupied Kashmir continues. Indian authorities did restore low-speed 2G mobile internet in early March, however, rapid services remain limited. On 3 April 2020, authorities ordered the continuation of the ban 'in the interest of the sovereignty and integrity of India'.⁹⁸

The ban could have grave consequences in the region, as local doctors have warned that efforts to prepare for the pandemic have been severely hampered by the lack of access to high-speed internet. Many doctors have reported trying to download guidelines for intensive care management or research papers issued by foreign institutions or international organisations, to no avail. Health professionals warn of the unpreparedness of the local health system, reporting insufficient resources and infrastructure. The region also faces shortages of staff, ventilators, intensive care beds, and personal protective equipment⁹⁹. In this context, it is even more crucial for both medical staff and the civilian population to be fully informed about the characteristics of the disease and the best ways to limit its spread, so that as many people as possible can avoid attending overcrowded and understaffed hospitals.

The authorities' response to the virus in Kashmir has also been heavily criticised for the positive violations of human rights it has entailed: for instance, the Indian administration called on people to

⁹⁶ African Arguments, 'Sweeping powers and a transition on ice: Pandemic politics in Ethiopia', 16 April 2020 <https://africanarguments.org/2020/04/16/sweeping-powers-transition-on-ice-COVID-19-pandemic-politics-ethiopia/>

⁹⁷ Constitution of The Federal Democratic Republic of Ethiopia www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf

⁹⁸ Foreign Policy, 'Slow Internet Is Speeding the Spread of the Coronavirus in Kashmir', 13 April 2020 <https://foreignpolicy.com/2020/04/13/slow-internet-speeding-spread-coronavirus-kashmir-india-lockdown/>

⁹⁹ The New Humanitarian, 'In Kashmir, slow internet throttles doctors' Coronavirus response', 1 April 2020 www.thenewhumanitarian.org/news/2020/04/01/kashmir-internet-ban-coronavirus

report their neighbours' or acquaintances' travel histories. Other contestable means of tracking down the spread of the virus have reportedly been used, such as phone records, ATM histories and ticketing information¹⁰⁰, but also remote heat maps, phone tracking, crowdsourcing apps, CCTV footage, etc.¹⁰¹ In addition to the use of surveillance to gather information, the very way this information is being used also raises serious concerns: physical violence has been reported across Kashmir by policemen and paramilitary personnel, often used indiscriminately and with no reasonable ground.

Meanwhile, on 13 April 2020, Prime Minister Narendra Modi announced an extension of the country's nationwide lockdown until 3 May 2020, claiming that 'India has coped very well so far, but it is vital that the virus is prevented from impacting parts of the country that remain unaffected'¹⁰².

The IBAHRI is concerned by India's resort to surveillance, restrictions of communications, informing, and physical violence to monitor and enforce the lockdown. These measures are in clear contradiction with India's commitments to freedom of expression as provided by Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to the right to privacy as provided by Article 17 ICCPR, to the right to life as provided by Article ICCPR,¹⁰³ and finally to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health as provided by Article 12 of the International Covenant on Economic, Social and Cultural Rights.¹⁰⁴

¹⁰⁰ Middle East Eye, 'Kashmir: Coronavirus is a new tool for India to oppress us', 7 April 2020 www.middleeasteye.net/opinion/Coronavirus-kashmir-india-responds-more-violence

¹⁰¹ The Economic Times, 'How to catch a Covid patient, Sherlock-style', 29 March 2020 <https://economictimes.indiatimes.com/news/politics-and-nation/how-to-catch-a-covid-patient-sherlock-style/articleshow/74870995.cms>

¹⁰² Itv, 'Indian Prime Minister Narendra Modi has extended the world's biggest nationwide Coronavirus lockdown', 14 April 2020 www.itv.com/news/2020-04-14/indian-prime-minister-narendra-modi-has-extended-the-world-s-biggest-nationwide-Coronavirus-lockdown/

¹⁰³ International Covenant on Civil and Political Rights www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

¹⁰⁴ International Covenant on Economic, Social and Cultural Rights www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx