



IBAHRI Freedom of Expression Bulletin

For Release: 26 March 2021

Reflecting on recent developments that significantly limit free expression in India, **Karuna Nundy, advocate at the Supreme Court of India and member of the High-Level Panel of Legal Experts on Media Freedom** remarked:

'For months, hundreds of thousands of farmers in India have been protesting changes to agricultural laws. As the nationwide farmers protests continue, my country's government is crushing dissent and free expression. Illegal internet restrictions and shutdowns were reportedly imposed at locations of protest and hundreds have been arrested in politically motivated cases. A slew of journalists covering the demonstrations have also been arrested on draconian charges of sedition and promoting communal disharmony.'

*There have been growing demands on social media platforms to concede to governmental pressure, with Twitter ordered to suspend over a thousand accounts, including those belonging to news websites and activists. In a recent act of executive overreach, the government introduced sweeping internet regulations, the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021** to monitor online activities of citizens, seriously undermining rights to privacy and freedom of expression online. The broad regulations capture online news platforms as well as social media and streaming platforms. These actions by the Modi government continue the regression of human rights in India and will create a severe, chilling effect. We must challenge and speak out on this abuse of power from an increasingly authoritarian government and bring back their constitutional and international obligations to promote and protect fundamental rights.'*

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.¹ 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.

¹ 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.

Iran

On 18 February 2021, Iranian President Hassan Rouhani signed into law two provisions with regards to ‘insulting legally-recognised religions and Iranian ethnicities’ to the Islamic Penal Code. The Iranian Parliament agreed to these additions on 13 January 2021 and the law has since been approved by the Guardian Council, a body tasked with ensuring legislative compliance with the Constitution and Sharia law in February.

Under the new provision, Article 499 say that ‘anyone who insults Iranian ethnicities or divine religions, or Islamic schools of thought recognised under the Constitutions with the intent to cause violence or tensions in the society or with the knowledge that such [consequences] will follow’ will be subjected to harsh punishment, where the outlawed conduct ‘leads to violence or tensions’ punishment will be between two- and five-years imprisonment and/or a fine. If no ‘violence and tension’ is caused, an imprisonment sentence of between six months and two years and/or a fine can be imposed.

Article 500 states that ‘any deviant educational or proselytising activity that contradicts or interferes with the sacred law of Islam’ when it is – among others – part of a ‘sect’, or using ‘mind control methods and psychological indoctrination’. The prescribed activities include ‘making false claims or lying in religious and Islamic spheres, such as claiming divinity.’ Under this provision, punishments including an imprisonment sentence of between two- and five-years and/or a fine can be imposed².

The new provisions pose serious restrictions to the rights to freedom of expression and the freedom of religion and belief as it disproportionately targets long persecuted ethnic and religious minorities. An analysis by free expression organisation Article 19 concludes that the provisions contradict international human rights standards due to the broad application and meaning of ‘insult’ provisions ‘which grant extensive interpretive discretion to the prosecutorial and judicial authorities providing a fertile ground for arbitrary arrest and detention’³.

² Article 19; Iran: Parliament passes law to further choke freedoms and target minorities, 19 February 2021, www.article19.org/resources/iran-parliament-passes-law-to-further-choke-freedoms-and-target-minorities/. The provisions have been ushered in alongside a number of problematic new Bills in the country, which target freedom of online expression, access to information and data protection rights.²

³ Article 19, n.2

Vague and anachronistic concepts should not be relied on to justify the criminalisation of insults⁴, including against individuals who refuse to subscribe to state-sanctioned beliefs and ideologies.

Malaysia

On 12 March 2021, an Emergency Ordinance came into effect in Malaysia under the January Proclamation of Emergency in the country. The (Essential Powers) (No. 2) Ordinance 2021, which poses a serious threat to freedom of expression and privacy and the right to a fair trial⁵, was implemented without any public consultation.

Specifically, the new Ordinance makes it a criminal offense to create, publish, or disseminate 'fake news' relating to the spread of Covid-19,⁶ or the proclamation of emergency in the country. Failure to take down such material upon official request⁷ is also an offence. Failure to remove the content can be penalised by a fine of up to 100,000 Malaysian ringgit (US\$24,000) and, in the case of a continuing offense, up to 300,000 ringgit (\$72,000) for every day during which the material remains available.

The new Ordinance also requires individuals, corporations and social media platforms to give the police authorities access to traffic data upon request, permits corporate directors and other executives to be held criminally liable for company actions, and overrides rules of evidence intended to ensure a fair trial.

As a reaction to the Ordinance, protests broke out in the country with demonstrators demanding the restoration of their constitutional and fundamental rights⁸. Media freedom groups have widely opposed to the new ordinance 'at a time when journalist rights and media freedom have been considerably curtailed under Covid-19'⁹.

The new Ordinance fails to meet international human rights standards of considering discretion in a state of emergency. Governments may only impose restrictions on freedom of speech if those restrictions are provided by law and are strictly necessary and proportionate to achieve a legitimate aim. The broad interpretation of the Ordinance fails to meet these standards and we join organisations calling for it to be immediately repealed.

Turkey

On 16 March 2021, Turkish President, Recep Tayyip Erdogan unveiled a national human rights Action Plan designed to strengthen the rule of law and judicial independence in the country.

⁴ Clooney, A & Webb, PM 2017, 'The Right to Insult in International Law', COLUMBIA HUMAN RIGHTS LAW REVIEW, vol. 48, no. 2. <http://hrlr.law.columbia.edu/hrlr/therighttoinsultininternationallaw/#:~:text=States%20all%20over%20the%20world.case%20law%20on%20insulting%20speech>.

⁵ Human Rights Watch, Malaysia: revoke 'Fake News' Ordinance, 13 March 2021, www.hrw.org/news/2021/03/13/malaysia-revoke-fake-news-ordinance

⁶ Bloomberg; Malaysia outlaws "fake news" on emergency, Covid Pandemic, 11 March 2021, www.bloomberg.com/news/articles/2021-03-12/malaysia-outlaws-fake-news-on-emergency-covid-pandemic

⁷ Human Rights Watch, n.5

⁸ International Federation of Journalists, Malaysia: New emergency laws criminalise "fake news", 12 March 2021, www.ifj.org/media-centre/news/detail/category/press-releases/article/malaysia-civil-society-groups-protest-ongoing-suspension-of-parliament.html

⁹ International Federation of Journalists, n.8

The Plan includes respecting the presumption of innocence and a swifter judicial process to reduce the length of pre-trial detention, considering a future new constitution that he has promised to adopt by the time Turkey marks its centenary in 2023¹⁰.

The Plan, however, has been heavily criticised by human rights defenders, legal experts and politicians. The ambiguity of the scope of some of the measures announced by President Erdogan, with regard to strengthening freedom of expression and press freedom creates doubt about the implementation of the plan. Accordingly, the overarching aims, including the protection and promotion of freedom of expression, are widely slammed on the grounds that they are ambiguous and abstract, and not solution-oriented¹¹. The plan does not commit to concrete actions to prevent politically motivated and punitive prosecutions and convictions of journalists, lawyers, human rights defenders and many others for exercising their rights.

¹⁰ France 24; Erdogan unveils Turkish human rights action plan, 2 March 2021, www.france24.com/en/live-news/20210302-erdogan-unveils-turkish-human-rights-action-plan

¹¹ IFEX; “Makeup on a bedridden patient”: Rights experts assess Turkey’s new Human Rights Action Plan”; March 12, 2021. <https://ifex.org/makeup-on-a-bedridden-patient-rights-experts-assess-turkeys-new-human-rights-action-plan/>

2. Privacy and surveillance

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

Australia

Australia has passed a world-first law aimed at making Google and Facebook pay for news content on their platforms. While Google has complied, Facebook called the regulators' bluff by banning Australian news from its platform, before reaching a deal with the Australian government that allows it to avoid the new code, but only if it signs agreements with key publishers.¹²

The amended legislation – the News Media Bargaining Code – was passed by Australia's House of Representatives on 25 February 2021, after earlier going through the Senate. The news code encourages tech giants and news organisations to negotiate payment deals between themselves and commits the social media companies to investing tens of millions of dollars in local digital content. If negotiations fail, an independent arbitrator can set the price they pay domestic media, which analysts say benefits the news groups. The government argues this prescribes a 'fairer' negotiation process between the parties, as it gives news organisations more leverage.¹³

Recent developments since the enactment of the law have seen Facebook agreeing to pay Rupert Murdoch's News Corp Australia for journalism from its local mastheads. The deal covers all of News Corp Australia's content. It controls about 70 per cent of newspaper circulation in Australia with titles including *The Australian*, *The Daily Telegraph* and *The Herald Sun*. On 16 March, Corp chief executive Robert Thomson praised the Facebook deal as a 'landmark in transforming the terms of trade for journalism.'¹⁴

A key consideration for this code, however, will be how smaller media outlets and local newspapers fare with it as they are the ones who have suffered the most in terms of loss of advertising revenue. As regulators seek to tame the tech giants, they must resist pressure from other monopolists to tailor new rules in ways that suit them. Instead of a law that channels a fraction of Google and Facebook's monopoly profits to old media, governments around the world should act together to dismantle the monopolies that threaten open, independent and robust journalism.

¹² The Guardian, 'Australia's move to tame Facebook and Google is just the start of a global battle', 24 February 2021, www.theguardian.com/commentisfree/2021/feb/24/australia-facebook-google-global-battle-governments-journalism

¹³ BBC, 'Facebook and Google news law passed in Australia', 25 February 2021, www.bbc.co.uk/news/world-australia-56163550

¹⁴ BBC, 'Facebook to pay News Corp for content in Australia', 16 March 2021, www.bbc.co.uk/news/world-australia-56410335

Cambodia

On 16 February 2021, Cambodian Prime Minister Hun Sen signed a Sub-Decree on the Establishment of the National Internet Gateway which would create a single point of entry for internet traffic regulated by a government-appointed operator¹⁵. The Sub-Decree creates governance through a national internet gateway – an infrastructure that requires all internet communications and internet data traffic circulating within and into Cambodia to pass through a gateway¹⁶. Foreign governments, global technology and social media companies, the Asia Internet Coalition, and human rights and internet freedom groups, all raised serious concerns about the Sub-Decree which were not considered by Cambodian authorities¹⁷.

In an open letter, a group of the undersigned national and international NGOs noted key concerns, arguing that the Sub-Decree established ‘an infrastructure that would facilitate broad surveillance of the online activities and personal data of individual users. Vaguely defined parameters throughout the Sub-Decree enable a system capable of maximum surveillance with minimum oversight, thereby bolstering Cambodia’s already over-bearing surveillance powers in violation of the right to privacy’.¹⁸

Article 6 of the Sub-Decree empowers the blocking of online connections or content deemed to ‘affect safety, national revenue, social order, dignity, culture, traditions and customs’. This list for censoring content gives the RGC broad powers to police and censor online content, with the Sub-Decree providing unfettered access to and control over all data exchanges in the country.

Further, Article 14 of the Sub-Decree poses risks to data protection and data confidentiality, mandating the retention and sharing of personal data. This provision contravenes the right to freedom of expression as enshrined in Article 41 of the Constitution of the Kingdom of Cambodia, and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), as it goes beyond the permissible restrictions to freedom of expression.

The right to privacy is enshrined in the Civil Code of Cambodia and the ICCPR. Restrictions on the right to privacy should respect the principles of legality, proportionality and necessity, including by establishing safeguards, oversight systems and remedies for overreach¹⁹.

The IBAHRI joins other organisations to call for the Sub-Decree to be scrapped and for Cambodia to comply with its Constitutional and international human rights obligations, including to ensure the rights to freedom of expression, information and privacy is protected for all.

China

On 12 March 2021, Reporters Without Borders (RSF) marked ‘World Day Against Cyber Censorship’ by unveiling figures that illustrate the unprecedented levels of cyber censorship in

¹⁵ The Diplomat, What’s in Cambodia’s New Internet Gateway Decree?, 24 February 2021, <https://thediplomat.com/2021/02/whats-in-cambodias-new-internet-gateway-decree/>

¹⁶ OMCT, Cambodia: Stop Harming Human Rights Online, 18 March 2021, www.omct.org/en/resources/statements/cambodia-joint-statement-discard-the-sub-decree-on-the-establishment-of-the-national-internet-gateway-set-to-detrimentally-impact-human-rights-online-in-cambodia

¹⁷ Human Rights Watch, Cambodia: Internet Censorship, Control Expanded, 18 February 2021, www.hrw.org/news/2021/02/18/cambodia-internet-censorship-control-expanded

¹⁸ OMCT, n.16

¹⁹ OMCT, n.16

China.²⁰ Specifically, the Cyberspace Administration of China (CAC), an entity personally supervised by President Xi Jinping, which has in recent years deployed a wide range of measures directly targeting China's internet users.²¹ With an army of censors and the use of new technology, the regime controls the circulation of information by shutting down websites, blocking access to IP addresses, filtering web pages and blocking keywords on social media.

Such technologies were widely used by the regime to crack down on criticism after the Covid-19 outbreak last year as reflected by Canadian research institute Citizen Lab's analysis from August 2020, which found that more than 2,000 keywords²² related to Covid-19 triggered censorship on WeChat.²³ Further, leaked documents published by *The New York Times* and *ProPublica* revealed that at least 3,200 confidential directives and 1,800 memos were issued to local propaganda workers and news outlets by the CAC in order to hide the extent of the Covid-19 outbreak in its early stages²⁴ and between January and September 2020 there were nearly 130,000 social media accounts²⁵ and more than 12,000 websites shut by the government.²⁶

The data compiled by RSF confirms that, since his accession in 2013, President Xi Jinping has taken internet censorship in China to unprecedented levels.²⁷ American think tank, the Jamestown Foundation estimated that in 2020 nationwide, spending on internet censorship in China reached at least 6.6 billion USD²⁸ and official sources have shown that China's internet censorship apparatus employed two million people in 2013. This number has almost certainly increased over the last eight years.²⁹

²⁰ RSF, 'China's Cyber Censorship Figures', 12 March 2021, <https://rsf.org/en/news/chinas-cyber-censorship-figures>

²¹ RSF, 'RSF Unveils 20/2020 List of Press Freedom's Digital Predators', 10 March 2021, <https://rsf.org/en/news/rsf-unveils-202020-list-press-freedoms-digital-predators>

²² The Citizen Lab, 'Censored Contagion II: A Timeline of Information Control on Chinese Social Media During COVID-19', 25 August 2020, <https://citizenlab.ca/2020/08/censored-contagion-ii-a-timeline-of-information-control-on-chinese-social-media-during-covid-19/>

²³ WeChat is the leading social media site in China, with 73% of all Chinese netizens using the site according to a survey made by Trading Platforms. See further, Trading Platforms, 'China to have 1.1 Billion Social Media Users by 2025 - Up 19% from 2020', 16 February 2021, <https://tradingplatforms.com/blog/2021/02/16/china-to-have-1-1-billion-social-media-users-by-2025-up-19-from-2020/>

²⁴ ProPublica, 'Leaked Documents Show how China's Army of Paid Internet Trolls Censor the Coronavirus', 19 December 2020, www.propublica.org/article/leaked-documents-show-how-chinas-army-of-paid-internet-trolls-helped-censor-the-coronavirus

²⁵ Cyberspace Administration of China, 'In the Third Quarter, National Cybersecurity and Informatization Law Enforcement Continued to Advance', 19 October 2020, www.cac.gov.cn/2020-10/19/c_1604669613427802.htm

²⁶ Cyberspace Administration of China, 'In the Second Quarter, the National Cybersecurity and Informatization Administrative Law Enforcement Work Progressed Steadily', 18 July 2020, www.cac.gov.cn/2020-07/21/c_1596879319813780.htm

²⁷ RSF, 'Great Firewall of China Closes Loopholes', 9 October 2017, <https://rsf.org/en/news/great-firewall-china-closes-loopholes>

²⁸ The Jamestown Foundation, 'Buying Silence: The Price of Internet Censorship in China', 12 January 2021, <https://jamestown.org/program/buying-silence-the-price-of-internet-censorship-in-china/>

²⁹ CNN, 'China "Employs 2 Million People to Police the Internet"', 7 October 2013, <https://edition.cnn.com/2013/10/07/world/asia/china-internet-monitors/index.html>

As it stands, there were 989 million internet users in China at the end of 2020, accounting for 22 per cent of all global netizens according to the China Internet Network Information Center, the regime's administrative agency responsible for internet affairs.³⁰

China ranked 177th out of 180 in the RSF World Press Freedom Index, as President Xi Jinping has continued to succeed in imposing a social model in China based on control of news and information and online surveillance of its citizens.³¹

Indonesia

The Indonesian government proposed a legal framework to coerce social media platforms, apps and other online service providers to accept local jurisdiction over their content and users' data policies and practices.³² The government seemingly took inspiration for these coercive regulations from Germany's 2017 'NetzDG' law, which compels internet platforms to remove or block content without a court order and impose fines on companies that do not proactively submit to the country's own content-removal rules.³³ Since NetzDG entered into force, Venezuela, Australia, Russia, India, Kenya, the Philippines, and Malaysia have drawn examples from Germany, which has influenced domestic legislation.³⁴

Indonesia's NetzDG variant, otherwise known as MR5³⁵, entered into force in November 2020, and goes significantly further than its German counterpart. In fact, the Indonesian government is exploring new lows in harsh, intrusive and non-transparent Internet regulation. The MR5 regulation, issued by the Indonesian Ministry of Communication and Information Technology seeks to tighten the government's grip over digital content and users' data. Unquestionably, this will create a chilling effect on free expression as platforms will opt to err on the side of removing grey area content rather than risking punitive measures. According to Ika Ningtyas, Head of the Freedom of Expression Division at the Southeast Asia Freedom of Expression Network (SAFEnet): 'We are very concerned that MR5 will be misused to silence groups criticizing the government. Independent branches of government have been excluded, making it unlikely that this regulation will include transparent and fair mechanisms.'³⁶

The MR5 regulation also comes at a time of increased conflict, violence and human rights abuses in Indonesia. At the end of 2020, the UN High Commissioner for Human Rights raised concern about the escalating violence in Papua and West Papua and highlighted reports detailing 'intimidation, harassment, surveillance, and criminalization of human rights defenders for the

³⁰ China Internet Network Information Center, 'The 47th "Statistical Report on the Development of China's Internet"', 3 February 2021, www.cnnic.cn/hlwfzyj/hlwzxbg/hlwtjbg/202102/t20210203_71361.htm

³¹ RSF, 2020 World Press Freedom Index, <https://rsf.org/en/ranking>

³² Electronic Frontier Foundation, 'Indonesia's Proposed Online Intermediary Regulation may be the most repressive yet', 16 February 2021, www.eff.org/deeplinks/2021/02/indonesias-proposed-online-intermediary-regulation-may-be-most-repressive-yet

³³ Article 19, *Germany: The Act to Improve Enforcement of the Law in Social Networks – A Legal Analysis*, August 2017, www.article19.org/wp-content/uploads/2017/12/170901-Legal-Analysis-German-NetzDG-Act.pdf

³⁴ Electronic Frontier Foundation, 'Turkey's New Internet Law is the Worst Version of Germany's NetzDG yet', 30 July 2020, www.eff.org/deeplinks/2020/07/turkeys-new-internet-law-worst-version-germanys-netzdg-yet

³⁵ *Regulation of the Minister of Communication and Information Technology Number 5 of 2020* (November 24, 2020 concerning Private Scope Electronic Systems Operators – Jakarta).

³⁶ Southeast Asia Freedom of Expression Network, '[Joint-Statement] Civil Society Demand that Net Neutrality be Protected in Interconnection Rules', 15 February 2021, <https://safenet.or.id/2021/02/joint-statement-civil-society-demand-that-net-neutrality-be-protected-in-interconnection-rules/>

exercise of their fundamental freedoms.³⁷ According to the Association for Progressive Communication (APC), the Indonesian government has used hate speech laws, envisioned to protect minority and vulnerable groups, to silence dissent and people critical of the government.³⁸ In addition, MR5 further exacerbates the challenging situation of freedom of expression in Indonesia.

Business enterprises have a responsibility to respect human rights law.³⁹ The UN Special Rapporteur on the freedom of opinion and expression reminded states that they 'must not require or otherwise pressure the private sector to take steps that unnecessarily or disproportionately interfere with freedom of expression, whether through laws, policies, or extra-legal means.'⁴⁰ The Special Rapporteur also pointed out that any measures to remove online content must be based on validly enacted law, subject to external and independent oversight, and demonstrate a necessary and proportionate means of achieving one or more aims under Article 19 (3) of the ICCPR.

The IBAHRI joins SAFEnet and other organisations urging the Indonesian government to repeal MR5 for its incompatibility with international freedom of expression law and standards. Companies should not remove content that is inconsistent with the permissible limitation test. General blocking measures as sanctions, in our opinion, are always inconsistent with Article 19 of the ICCPR and the Indonesian government must bring its legislation into full compliance with international freedom of expression standards.

Myanmar

The ongoing coup d'état in Myanmar has generated myriad reactions from human rights defenders and organisations for the government's flagrant disregard for the rule of law. In addition to the ongoing violations of human rights as the military have increasingly used deadly force against Burmese citizens opposing their illegitimate power grab. Most disturbing yet is the military junta's access to a new public camera system equipped with facial recognition and license plate recognition technology, which poses a serious threat to basic rights in the country.⁴¹

On 14 December 2020, Myanmar authorities rolled out the first phase of its 'Safe City' initiative and started using a system of 335 surveillance cameras in eight townships in the capital, Naypyidaw.⁴² The cameras, from the technology company Huawei, come installed with artificial intelligence technology that automatically scans faces and vehicle license plates in public places

³⁷ OHCHR, 'Comment by UN Human Rights Spokesperson Ravina Shamdasani on Papua and West Papua, Indonesia,' 30 November 2020, www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26551&LangID=E

³⁸ Association for Progressive Communications, 'Unshackling Expression: A Study on Online Freedom of Expression in Indonesia', (November 2020), www.apc.org/sites/default/files/Report_Indonesia_20.11.19.pdf

³⁹ United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (2011) Available online at: www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

⁴⁰ UN Human Rights Council, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, 11 May 2016, A/HRC/32/38.

⁴¹ Human Rights Watch, 'Myanmar: Facial Recognition Systems Threaten Rights', 12 March 2021, www.hrw.org/news/2021/03/12/myanmar-facial-recognition-system-threatens-rights

⁴² Myanmar Times, 'Naypyitaw authorities activate 335 cameras able to detect faces', 23 December 2020, www.mmtimes.com/news/nay-pyi-taw-authorities-activate-335-cameras-able-to-detect-faces.html

and alerts authorities to those on a wanted list.⁴³ Of significant concern is that the rollout of this technology was approved without public consultation or transparency, making it unclear how the authorities plan to mitigate the technology's potential impact on human rights, including the right to privacy.

On 13 February 2021, the military junta suspended section 5, 7, and 8 of the Law Protecting the Privacy and Security of Citizens (2017), removing basic protections, including the right to be free from arbitrary detention and the right to be free of warrantless surveillance, search and seizure. Recent editions of this Bulletin have explored the dangers of facial recognition technology in the context of identifying aggressors in attendance of the US capitol insurgent, and what is universally clear is that such responses violate international privacy and human rights standards.

The ICCPR prohibits state parties from illegally interfering in the privacy of individuals. Former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, has previously noted that technological surveillance without adequate safeguards to protect the right to privacy endangers the enjoyment of fundamental freedoms.⁴⁴ Facial recognition technology has been known to be incompatible with the safeguards of privacy as it does not have effective ways to avoid misunderstandings and false identification of individuals and can therefore be considered a disproportionate mechanism that violates the Article 17(1) of the ICCPR.

Even though Myanmar has not ratified the ICCPR, these protections are also provided in Article 12 of the Universal Declaration of Human Rights, which are considered reflective of customary international law. Under the United Nations Guiding Principles on Business and Human Rights, technology companies also have a responsibility to ensure that their products and services do not contribute to human rights abuses, including violations of privacy.⁴⁵ The IBAHRI strongly condemns the continued violations of human rights in Myanmar with particular emphasis on the dangers of facial recognition technology which stimulates an unlawful intervention on individual's right to freedom of assembly by neglecting the limits of their right to privacy and use which should not be normalised.

⁴³ Myanmar Now, 'Hundreds of Huawei CCTV cameras with facial recognition go live in Naypyitaw', 15 December 2020, www.myanmar-now.org/en/news/hundreds-of-huawei-cctv-cameras-with-facial-recognition-go-live-in-naypyitaw

⁴⁴ Privacy International, *Issues of concern on the implementation of Article 17 and Article 19 of the ICCPR in Argentina - Submission to the 110th Session of the Human Rights Committee for the attention of the Country Report Task Force on Argentina*, (December 2013) https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ARG/INT_CCPR_ICS_ARG_16054_E.pdf

⁴⁵ United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (2011) Available online at: www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

3. Safety of journalists

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

Afghanistan

On 1 March 2021, three female journalists working at the Enikass Radio and TV were killed in the city of Jalalabad, Afghanistan. A fourth woman was wounded in one of the attacks and taken to the hospital. Shaharзад Akbar, the chairwoman of the Afghanistan Independent Human Rights Commission, called the attack 'horrific' and noted that the 'Afghan women have been targeted & killed too often,' on social media.

Data by the Afghanistan Journalists Center⁴⁶ shows that 11 journalists and media workers have been killed in Afghanistan since the peace deal was signed between the United States and the Taliban in February 2020. Most of these journalists were deliberately targeted for their work, which underscores the lack of effective human rights protections in the country. Among the targeted journalists are TV presenter Malala Maiwand, who was killed on Human Rights Day on 10 December 2020, along with her driver, freelance photojournalist Rahmatullah Nikzad, who was killed in Ghazni province on 21 December 2020, and Bismillah Adel Aimaq, a radio journalist who was killed in Central Ghor province on 1 January 2021.

A recent report⁴⁷ by the UN Assistance Mission in Afghanistan on the killings of human rights defenders, journalists and media workers in Afghanistan between 2018-2021 attested that 33 journalists and media have been killed in Afghanistan⁴⁸ during this time. It comes from the recent and weak peace negotiations between Taliban and the Afghan government. This has had a chilling impact on civil society, resulting in many human rights defenders, journalists and media workers seeking to leave Afghanistan. The report also shows how the threat of violence and insecurity has led some to self-censor, and others to depart the country⁴⁹.

⁴⁶ Afghanistan Journalists Center, Three Female Media Workers Shot to Death in Eastern Nangarhar province, 2 March 2021, <https://afjc.af/english/news/eastern-province-news/nangerhar/three-female-media-workers-shot-to-death-in-eastern-nangarhar-province>

⁴⁷ UN Assistance Mission in Afghanistan (UNAMA), Killings of Human Rights Defenders and Media Professionals in Afghanistan, 15 February 2021, https://unama.unmissions.org/sites/default/files/unama_special_report_killing_of_human_rights_defenders_and_journalists_in_afghanistan_2018-2021_february_2021.pdf

⁴⁸ The New York Times, Three Women Working for a News Outlet Are Gunned Down in Afghanistan, 4 March 2021, www.nytimes.com/2021/02/23/world/asia/afghanistan-civilian-casualties.html

⁴⁹ UNAMA, n.46

Belarus

Belarus' human rights situation has deteriorated further in recent weeks and organisations, including the European Federation of Journalists (EFJ) have called for a review in the context of the grave and systemic human rights violations the authorities committed in the run-up to the fraudulent 2020 presidential election and its aftermath, for which there has been no accountability.⁵⁰ The IBAHRI has joined the EFJ, Amnesty International, the International Federation for Human Rights and Article19 in calling for action by the UN Human Rights Council to establish a new mechanism assisting the process of accountability for human rights violations in Belarus. On 24 March 2021, a resolution passed by the UN Human Rights Council instructing the High Commissioner to create a new robust monitoring and reporting mandate focused on accountability for human rights violations in Belarus that have taken place since 1 May 2020. In so doing, the Council demonstrated its determination to hold Belarusian authorities to account.

A recent report of the UN High Commissioner for Human Rights, Michelle Bachelet, describes 'a human rights crisis of a magnitude unprecedented in Belarus', observing that journalists have been routinely detained in the context of the protests, even when they clearly identified themselves as such with their press cards, without regard for their protection under international human rights law to exercise their functions of reporting during assemblies.⁵¹

Recent months have also seen the wider targeting of journalists with figures showing that between 9 August and 20 December 2020, 384 journalists were arrested, 80 were sentenced to administrative detention, several were fined, and 62 reportedly experienced violence and beatings. Some journalists were placed in pretrial detention and faced criminal charges, among them TuT.BY journalist Katyarina Barisevich, for allegedly disclosing confidential medical records while preparing an article about Roman Bondarenko.

Citing hospital records, Ms. Barysevich had revealed that Mr. Bondarenko, had died from severe injuries after a beating by suspected plainclothes police officers, had not had alcohol in his system at the time – as a report by state authorities had claimed, posing major questions for the state agency Investigative Committee of Belarus (ICB) and indicated an attempt by authorities to muddy the waters over the protesters' death. Rather, Ms. Barysevich's report indicated that he had died of brain and other injuries, sparking fresh public anger and fuelling more protests against Lukashenko's regime.⁵²

⁵⁰ European Federation of Journalists, 'EFJ calls on the UN Human Rights Council to create an accountability mechanism on Belarus', 10 March 2021, <https://europeanjournalists.org/blog/2021/03/10/efj-calls-on-the-un-human-rights-council-to-create-an-accountability-mechanism-on-belarus/>

⁵¹ UN Human Rights Council, *Situation of human rights in Belarus in the context of the 2020 presidential election*, 22 February-19 March 2021, A/HRC/46/4.

⁵² News.TuT.BY, 'The doctor of the emergency hospital: "Roman Bondarenko had zero ppm of alcohol, nothing was found at all', 13 November 2020, <https://news.tut.by/society/707715.html>

Ms. Barysevich, who has been in custody since November 2020, is one of several journalists jailed in Belarus for reporting on anti-government protests which broke out over the fraudulent presidential election victory of long-serving authoritarian leader Alexander Lukashenko.⁵³

The IBAHRI calls for immediate action of the UN mandate and for the immediate and unconditional release all those unlawfully or arbitrarily detained for peacefully exercising their freedoms of expression, association and peaceful assembly or their legitimate functions, including human rights defenders, journalists and lawyers, and cease and reverse any administrative or criminal judicial action against people for exercising their human rights, including the rights to freedoms of expression and peaceful assembly.

The IBAHRI welcomes the announcement of political support for the International Accountability Platform for Belarus (IAPB), from the governments of Austria, Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, the Netherlands, Norway, Poland, Romania, Slovakia, Switzerland, the United Kingdom and the United States. The IAPB has taken on the responsibility of the collection, consolidation, verification and preservation of information, documentation and evidence of serious violations of international human rights law committed in Belarus in the run-up to the 2020 presidential election and its aftermath.⁵⁴ On 25 March, the UK announced that they are contributing 500,000 euros to the IAPB to support their work. UK Foreign Secretary, Dominic Raab stated that the 'independent initiative, free from political interference, will help defend democracy, media freedom and human rights.'⁵⁵ The IBAHRI commends the UK government for taking concerted action to ensure accountability for those who have committed human rights abuses against peaceful protesters, journalists and human rights defenders in Belarus.

China

On 1 March 2021, the Foreign Correspondents' Club of China (FCCC) published its annual report⁵⁶ to reveal that China's harassment of foreign correspondents had intensified throughout the Covid-19 crisis, suffering numerous attacks and setbacks⁵⁷. The Chinese government has been unleashing videos, photos and articles that accuse foreign media professions of manipulating information and collaborating with foreign governments, and deploying oppression in Xinjiang,

⁵³ International Press Institute, 'IPI denounces conviction of Belarus journalist Katsiaryna Barysevich', 3 March 2021, <https://ipi.media/ipi-denounces-conviction-of-belarus-journalist-katsiaryna-barysevich/>

⁵⁴ UK Government, 'Press release: Establishing the International Accountability Platform for Belarus: 19 states' joint statement', 24 March 2021, <https://www.gov.uk/government/news/joint-statement-by-19-states-in-support-of-the-establishment-of-the-international-accountability-platform-for-belarus>

⁵⁵ UK Government, 'Press release: UK announces €500k funding to help gather evidence of human rights violations in Belarus' 24 March 2021, <https://www.gov.uk/government/news/uk-announces-500k-funding-to-help-gather-evidence-of-human-rights-violations-in-belarus#:~:text=The%20UK%20contributes%20500%2C000%20euros,violations%20and%20torture%20in%20Belarus.&text=This%20independent%20initiative%2C%20free%20from,media%20freedom%20and%20human%20rights>

⁵⁶ Foreign Correspondents' Club of China, Annual Report 2020, 1 March 2021, www.dropbox.com/s/xye6bhic0s4hqm/2020%20FCCC%20Report.pdf?dl=0

⁵⁷ Sydney Morning Herald, Media goes on trial in China as Beijing escalates attacks on journalists , 14 March 2021, www.smh.com.au/world/asia/media-goes-on-trial-in-china-as-beijing-escalates-attacks-on-journalists-20210312-p57ac6.html

where it over one million Uighurs are believed to be held in illegal detention⁵⁸. The Australian Strategic Policy Institute indicated that there is an alignment between governmental Chinese agencies and patriotic online influencers to target international journalists. Smear campaigns against foreign journalists aim to discredit them and halt their efforts to unveil the human rights violations in China. The FCCC research, based on 150 responses of the club members, showed that the Chinese government has now been weaponising visas to expel international media professionals from the country and prevent their entrance⁵⁹. Reprisals have intensified during the pandemic and amount to intimidation by Chinese personnel, physical surveillance and harassment on their sources. The FCCC also added that 90 per cent of journalists that travelled to the autonomous regions of Xinjiang, where thousands of Uighur people face torture, rape and forced sterilisations⁶⁰, encountered some level of obstruction⁶¹. On 3 March 2021, Radio Free Asia journalist Eset Sulaiman unveiled that authorities in the Xinjiang autonomous region had arrested two of his brothers and five of his cousins in 2017 and 2018⁶². They are still in prison exclusively to discourage Mr Sulaiman from documenting the government's atrocities in Xinjiang, using his family as a tool to silence him.

Colombia

On 15 March 2021, the public hearing began before the Inter-American Court of Human Rights within the framework of the process in which the responsibility of Colombia in the acts of threats, kidnapping, torture and sexual violence faced by the journalist Jineth Bedoya Lima in 2000. During the hearing, the National Legal Defense Agency of the Colombian State, headed by Camilo Gómez, pointed out the alleged lack of impartiality of the majority of the judges and the president of the Inter-American Court and announced that it will present a request for recusal against five of the six judges, due to an alleged lack of procedural guarantees⁶³. Colombia made the decision to withdraw from the hearing and, furthermore, the witness offered by the state did not appear to give her statement. On 16 March, the Court announced the hearing was suspended and would be rescheduled.⁶⁴

Ms. Bedoya, a Colombian journalist who was kidnapped, tortured and raped while reporting on her country's civil war and has been pursuing justice for more than 20 years and now campaigns against sexual violence, has so far seen only three of her attackers sentenced. On 25 May 2000, she was abducted outside a Bogotá prison where she was due to interview a paramilitary leader. She was drugged and driven hours outside of town where she was beaten and raped. The case at

⁵⁸ Sydney Morning Herald, n.55

⁵⁹ RSF, China: Harassment of foreign correspondents intensified during Covid-19, 4 March 2021, <https://rsf.org/en/news/china-harassment-foreign-correspondents-intensified-during-covid-19-0>

⁶⁰ VOA, How China Uses Family Members to Pressure Uyghur Journalists, 16 March 2021, www.voanews.com/press-freedom/how-china-uses-family-members-pressure-uyghur-journalists

⁶¹ RSF, n.57

⁶² Committee to Protect Journalists, China detains family members of Radio Free Asia Uyghur editor Eset Sulaiman, 8 March 2021, <https://cpj.org/2021/03/china-detains-family-members-of-radio-free-asia-uyghur-editor-eset-sulaiman/>

⁶³ Foundation for Press Freedom (FLIP), The Colombian State revictimizes and prevents access to justice for Jineth Bedoya Lima, 15 March 2021, <https://flip.org.co/index.php/es/informacion/pronunciamentos/item/2687-el-estado-colombiano-revictimiza-e-impide-el-acceso-a-la-justicia-para-jineth-bedoya-lima>

⁶⁴ The Inter-American Court of Human Rights, SUSPENSIÓN DE AUDIENCIA PÚBLICA DEL CASO BEDOYA LIMA Y OTRA VS. COLOMBIA, 16 March 2021, www.corteidh.or.cr/docs/comunicados/cp_11_2021.pdf

the Inter-American Court of Human Rights could have set a precedent for thousands of survivors of sexual violence in the Andean nation⁶⁵.

The hearing restarted on 22 March, during which the Court heard expert evidence from Caoilfhionn Gallagher QC on safety of journalists, sexual and gender-based violence & international standards.⁶⁶ On 24 March, the Court ordered the Colombian State to adopt provisional measures, to immediately implement all the necessary measures to protect the life and personal integrity of the victims, Ms Bedoya and her mother Luz Nelly Lima. The Colombian government also accepted that it was a mistake not to have investigated the complaints about the death threats and the attack that was perpetrated against the journalist in 1999, months before her kidnapping took place.⁶⁷

The IBAHRI welcomes the Court's order for provisional measures to protect Ms Bedoya and her mother, as well as the Colombian government's admission that it failed in its duty. Governments must do all they can to uphold their obligations to ensure justice in cases of violence against journalists. During the trial, Ms Bedoya outlined that having participated in the process could represent more risks for her.⁶⁸ We note that the state is required to report to the Court every two months, on the provisional measures adopted. We will monitor their actions and reports to ensure the government complies with the ruling.

Egypt

On 22 February 2021, Jamal Al-Jamal, the well-known Egyptian freelance journalist and writer, was arrested at Cairo International Airport upon his arrival from Turkey. A statement by Egyptian Security Services', indicated that Mr. Al-Jamal had been held in pre-trial detention at Cairo's Tora Prison and was facing terrorism charges.

Mr. Al-Jamal has contributed to numerous major news outlets as a columnist for Al-Masry al-Youm, Al-Karama and Al-Tahrir newspapers. He also contributed to Masr al-Arabia, Al-Jazeera Mubasher and Arabi21, where he has often criticised Al-Sisi's government policy and conducts.⁶⁹

In 2014, Mr. Al-Jamal published an article in El Tahrir newspaper criticising President Abdel Fattah Al-Sisi's government for its failure to support his citizens' needs. Subsequently, he received a call from the President to discuss issues he raised in his article. According to Mr. Al-Jamal,

⁶⁵The Guardian, 'It opens a window of hope': case will potentially set precedent for sexual violence survivors in Colombia', 15 March 2021, www.theguardian.com/global-development/2021/mar/15/jineth-bedoya-colombian-journalist-sexual-violence

⁶⁶ Twitter, Caoilfhionn Gallagher QC, 23 March 2021, <https://twitter.com/caoilfhionnanna/status/1374488580492435457>

⁶⁷ El Pais Vallenato, 'The Colombian State is ordered to protect measures for Jineth Bedoya and her mother', 24 March 2021, <https://www.elpaisvallenato.com/2021/03/24/ordenan-al-estado-colombiano-medidas-de-proteccion-para-jineth-bedoya-y-su-mama/>

⁶⁸ El Pais Vallenato, n.67

⁶⁹ Committee to Protect Journalists 'Egyptian columnist Gamal al-Gamal arrested, charged with terrorism, false news', 1 March 2021, <https://cpi.org/2021/03/egyptian-columnist-gamal-al-gamal-arrested-charged-with-terrorism-false-news/>

President Al-Sisi stressed he was not offended by his criticism and he would tolerate dissidents as long as they 'serve public interest'.⁷⁰

The authorities are investigating Mr. Al-Jamal under the infamous Case No. 977 of 2017, also known as 'Mukameleen 2' by Egyptian media. Those arrested as part of the case's ongoing investigation are accused of incitement, holding organisational meetings with the movement's members and being part of the armed groups affiliated with activity related to the presidential elections and spreading 'fake news'. Although the case was opened more than three years ago, journalists are still prosecuted as part of the ongoing case.

On 12 March 2021, 31 UN members signed a joint statement, delivered by Finnish Ambassador Kirsti Kauppi at the UN Human Rights Council's 46th session, urging Egypt to end the use of terrorism charges to prosecute journalists, politicians and activists. The IBAHRI supports this action and condemns 'restrictions on freedom of expression, constraining space for civil society and political opposition and use of counter-terrorism laws to punish peaceful critics.'⁷¹

Malta

On 26 February, the IBAHRI released a statement to welcome the long awaited developments in the murder case of journalist Daphne Caruana Galizia where one of three accused hitmen has been sentenced to 15 years in prison earlier this week after entering a guilty plea, and three men have been arrested under suspicion of supplying the bomb that took Caruana Galizia's life. Right until her death, Ms Caruana Galizia was a relentless investigative journalist who uncovered networks of alleged corruption by Maltese politicians and officials. We join hopes that this will be the first step in securing full justice for Ms Caruana Galizia and her family.

On 23 February, a Maltese court sentenced Vincent Muscat – one of three accused hitmen who has been detained since December 2017 – to 15 years in prison after he pled guilty to involvement in the assassination of Ms Caruana Galizia and agreed to provide information to the police. On the same day, four men were arraigned in connection with the assassination as well as other crimes: brothers Adrian and Robert Agius, Jamie Vella, and George Degiorgio, with all four pleading 'not guilty.' Police Commissioner, Angelo Gafa, stated that he believed everyone connected to Ms Caruana Galizia's assassination has now been apprehended. The IBAHRI will continue to monitor developments in this regard.

The pursuit of justice since her death has come to symbolise the battle over press freedom and journalism and the obstacles faced by those seeking accountability. While the independent public inquiry into Ms Caruana Galizia's assassination continues to review evidence, the IBAHRI recalls how Ms Caruana Galizia was killed as a result of her work, with the focus of her journalism around state corruption and how this reflects the existing culture of impunity that has allowed for the circumstances that caused her death. Although these developments are welcomed, states who are implicated in the murder of journalists should not be allowed to investigate their murder as the obligations relating to duty to investigate include for it to be prompt, independent, impartial, thorough, effective and transparent.

⁷⁰ Rai Alyoum, 'Did the Egyptian journalist Gamal El-Gamal make a mistake to return to Cairo?', 26 February 2021, <https://www.raialyoum.com/>

⁷¹ Amnesty International 'States break silence to condemn Egypt's abuses at UN rights body', 12 March 2021, www.amnesty.org/en/latest/news/2021/03/states-break-silence-to-condemn-egypts-abuses-at-un-rights-body/

Recalling the recent report by the High Level Panel of Legal Experts on Media Freedom⁷², ‘Advice on Prompting More Effective Investigations for Crimes Against Journalists’, setting up a standing International Investigative Task Force with the mandate to investigate attacks on journalists and other activists targeted for their role in exposing information (such as human rights defenders, bloggers etc.) would ensure that attacks against journalists get investigated effectively and promptly.⁷³

Myanmar

On 8 March 2021, state broadcaster Myanmar Radio and Television (MRTV) announced that the country’s military government had rescinded the operating licenses of the independent outlets Mizzima 7Day News, Democratic Voice of Burma (DVB) and Khit Thit Media, all of which had covered the nationwide protests against the junta government since it took power in the 1 February coup.⁷⁴

Dozens of soldiers and police forcibly broke into Myanmar Now’s office in downtown Yangon and seized computers, documents and data server components, which stated that staffers had not been in that office since before the coup.⁷⁵ Authorities also arrested DVB journalists Min Nyo while he was covering protests in Pyay Township on 1 March, and Kaung Myat Hlaing at his home in Myeik City on 3 March and both remain detained without charge.⁷⁶ According to the New York Times, over 1,800 people have been detained nationwide since the beginning of the military coup.⁷⁷

As the situation continues, rumours surrounding potential threats spread fast, particularly without the journalists to verify truths but they have become the military’s next target.⁷⁸

On 5 March, the International Bar Association and the IBAHRI released a statement⁷⁹ condemning the killing of unarmed anti-coup protestors in Myanmar and the escalation in violence meted out against them by the police and security forces.

We continue to closely monitor the situation and call on the authorities in Myanmar to afford protection for journalists and request the immediate reinstatement of national media outlet licenses. In this regard, we once again condemn the military coup in the strongest possible terms and demand the immediate release of all those held in unlawful captivity by the military junta.

⁷² www.ibanet.org/IBAHRISecretariat.aspx

⁷³ IBAHRI, The High Level Panel of Legal Experts on Media Freedom, Advice on Promoting More Effective Investigations into Abuses against Journalists’, November 2020, www.ibanet.org/Investigations-report-launch-2020.aspx

⁷⁴ VOA News, ‘Myanmar military strips five media companies of licenses’, 8 March 2021, www.voanews.com/east-asia-pacific/myanmar-military-strips-five-media-companies-licenses-0

⁷⁵ The Guardian, ‘Myanmar security forces raid media HQ as opposition crackdown spreads’, 8 March 2021, www.theguardian.com/world/2021/mar/08/myanmar-police-occupy-hospitals-in-yangon-ahead-of-national-strike

⁷⁶ Committee to Protect Journalists, ‘Myanmar military raids newsrooms, revokes 5 media outlets’ licenses’, 9 March 2021, <https://cpij.org/2021/03/myanmar-military-raids-newsrooms-revokes-5-media-outlets-licenses/>

⁷⁷ The New York Times, ‘Myanmar military storms universities and hospitals and revokes press licenses’, 9 March 2021, www.nytimes.com/2021/03/08/world/asia/myanmar-coup-violence.html

⁷⁸ The Guardian, ‘Reporting from Myanmar: “The future has never been darker”’, 15 March 2021, <https://www.theguardian.com/membership/2021/mar/15/reporting-from-myanmar-the-future-has-never-been-darker>

⁷⁹ IBAHRI, IBA and IBAHRI condemn the killing of protestors in Myanmar and rampant violence of security forces, 5 March 2021, www.ibanet.org/Article/NewDetail.aspx?ArticleUid=eab03e09-6e43-4ac4-a6ae-c0d11becf855

Philippines

On 8 March 2021, the International Center for Journalists released pivotal research on online violence against journalists, focusing on the case of Rappler CEO, Maria Ressa.⁸⁰

As examined in earlier editions of this Bulletin, award winning journalist, Rappler CEO and Executive Editor Maria Ressa was charged with cyber libel over an allegedly ‘malicious’ tweet posted in 2019 that included screenshots from a dated article from Philstar.com linking the businessman Wilfredo Keng to murder on 23 November 2020. A new warrant for her arrest was issued on 27 November 2020 and she posted bail. This marked the ninth arrest warrant issued against Ms. Ressa, who has been arrested twice in the past two years. At least eight cases are currently open against her, including criminal tax charges.⁸¹

The attacks against Ms. Ressa are fuelled by President Duterte, who has publicly condemned her,⁸² while musing that journalists are not exempt from assassination.⁸³ His government has also employed a number of the key actors who have targeted Ms. Ressa online, and the worst attacks against her appear to have been orchestrated.⁸⁴

Findings from the research showed that almost 60 per cent of the attacks extracted from Facebook and Twitter were designed to undermine Ms. Ressa’s professional credibility and public trust in her journalism – mostly done by associating Ms. Ressa and her work with ‘lies’ and ‘fake news.’⁸⁵ Over 40 per cent of the attacks collected from both platforms targeted Ms. Ressa ‘at the personal level – often viscerally.’ These included misogynistic and sexist attacks. Co-author Julie Posetti, Global Director of Research at ICFJ, said these were ‘fuelled by the toxic machismo modelled by the President himself.’⁸⁶ The study also found ‘direct evidence that the online violence targeting Ms. Ressa has offline consequences.’⁸⁷

Caoilfhionn Gallagher QC, the co-lead counsel for the case against Ms. Ressa stated that there is ‘a symbiotic relationship between the abuse Maria experiences online and the progress of the legal harassment offline.’⁸⁸ The IBAHRI stands with Ms. Ressa, her legal team and international organisations in reminding the Philippines’ judiciary that freedom of the press and freedom of speech are protected in Article 3 (4) of the Philippine Constitution, Article 19 of the Universal

⁸⁰ Rappler, ‘State-led and coordinated: ICFJ dives into online attacks vs Maria Ressa’, 8 March 2021, www.rappler.com/world/global-affairs/icfj-case-study-online-violence-maria-ressa-march-2021

⁸¹ RSF, ‘#HoldTheLine Coalition calls for new cyber libel charge to be dropped and pressure ceased against Maria Ressa’, 3 December 2020, <https://rsf.org/en/news/holdtheline-coalition-calls-new-cyber-libel-charge-be-dropped-and-pressure-ceased-against-maria>

⁸² The New York Times, ‘The Journalist vs the President, with life on the line’, 15 October 2019, www.nytimes.com/2019/10/15/magazine/rappler-philippines-maria-ressa.html

⁸³ Time, ‘Duterte says journalists in the Philippines are ‘not exempted from assassination’, 1 June 2016, <https://time.com/4353279/duterte-philippines-journalists-assassination/>

⁸⁴ Graphika, *Operation Naval Glazing – Facebook takes down Inauthentic Chinese Network*, (September 2020) https://public-assets.graphika.com/reports/graphika_report_naval_glazing.pdf

⁸⁵ International Center for Journalists, *Maria Ressa: Fighting the Onslaught of Online Violence – A Big Data Analysis*’ (March 2021) www.icfj.org/sites/default/files/2021-03/Maria%20Ressa-%20Fighting%20an%20Onslaught%20of%20Online%20Violence_0.pdf

⁸⁶ Rappler, n.40.

⁸⁷ Rappler, ‘Duterte supporters call for attacks on Rappler newsroom journalists’, 22 February 2019, www.rappler.com/nation/duterte-supporters-call-for-attacks-newsroom-journalists-february-2019

⁸⁸ International Center for Journalists, ‘Maria Ressa: Fighting an Onslaught of Online Violence’, 8 March 2021, www.icfj.org/our-work/maria-ressa-big-data-analysis

Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the ASEAN Human Rights Declaration.

Saudi Arabia

On 25 February 2021, the US government released a four-page intelligence report⁸⁹ on the disappearance and death of Mr Khashoggi, an outspoken critic of the Saudi Arabian government, who was murdered inside the Saudi embassy in Istanbul, Turkey on 2 October 2018. The report concluded that Crown Prince Mohammed bin Salman had approved⁹⁰ a plan to 'capture or kill' Mr Khashoggi. The findings were based on the Crown Prince's 'absolute control [since 2017] of the Kingdom's security and intelligence organizations, making it highly unlikely that Saudi officials would have carried out an operation of this nature without the Crown Prince's authorization', and 'the direct involvement of a key adviser and members of [his] protective detail in the operation.'

Saudi Arabia and the Crown Prince rejected the findings of the US intelligence report with the Saudi Foreign Ministry stating the government took 'all necessary judicial measures' to prosecute the perpetrators. Five people have each been sentenced to 20 years' imprisonment. The UN decried the trial held as 'theatre' and a 'mockery of justice.' The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard said: 'It is extremely problematic, if not dangerous, to acknowledge someone's culpability, and then to tell that someone, we won't do anything; please proceed as if we had said nothing.'

In a statement⁹¹, the IBAHRI urged governments around the world to utilise universal jurisdiction to arrest and try the Saudi Crown Prince. Furthermore, the IBAHRI called on states with operational human rights sanctions regimes, including those that have already imposed sanctions on individuals in Saudi Arabia, to implement sanctions against the Crown Prince also.

IBAHRI Director, member of the High Level Panel of Legal Experts on Media Freedom and member of the UN team investigating the murder of Mr Khashoggi, Baroness Helena Kennedy QC commented: '*Now more than ever it is imperative that states take decisive action to hold Saudi Arabia and Prince Mohammed bin Salman accountable for the murder of Jamal Khashoggi. Unanimous action from the international community, collectively resolving to exercise universal jurisdiction whenever possible, is the only way to send the clear message that such behaviours will not be tolerated.*'

United Kingdom

On 9 March 2021, the UK government published their National Action Plan for the Safety of Journalists as a preliminary step towards protecting journalists from threats of violence and

⁸⁹ www.dni.gov/files/ODNI/documents/assessments/Assessment-Saudi-Gov-Role-in-JK-Death-20210226v2.pdf

⁹⁰ The Guardian, US finds Saudi crown prince approved Khashoggi murder but does not sanction him, 26 February 2021, www.theguardian.com/world/2021/feb/26/jamal-khashoggi-mohammed-bin-salman-us-report

⁹¹ IBAHRI, IBAHRI urges governments to utilise universal jurisdiction in case of Jamal Khashoggi murder, 22 March 2021, www.ibanet.org/Article/NewDetail.aspx?ArticleUid=1011ecc8-3fbd-4efb-ad3f-f4c59dc8936d

intimidation.⁹² The plan, which was launched with cross-party support, sets out a range of measures designed to ensure freelance and staff journalists are protected and supported.⁹³

Following a survey conducted by the National Union of Journalists (NUJ) last year, which found that more than half of respondents had experienced online abuse and nearly a quarter had been physically assaulted or attacked, the NUJ called for action to halt the rising instances of harassment and abuse, both on and offline.⁹⁴ The union also highlighted the disproportionate abuse aimed at women and black and minority ethnic journalists.⁹⁵ Abuse aimed at UK journalists going about their work has included them being punched, threatened with knives, forcibly detained and subjected to rape and death threats, the Government said.⁹⁶ In the past year, two men have been jailed for threatening regional journalist Amy Fenton on Facebook⁹⁷ while two female journalists in Belfast, Patricia Devlin and Allison Morris, have been the subject of threats both online and in graffiti.⁹⁸

The National Police Chiefs' Council has appointed a lead officer, Chief Constable Gavin Stephens, to take responsibility for crime against journalists at national level while every police force will be given access to a designated journalist safety liaison officer. Police will also engage with the NUJ and Society of Editors to update their training for police both on investigating crime against journalists and the ability of journalists to cover demonstrations.⁹⁹

The overall objective of the plan is to increase understanding of the problem; to enhance the criminal justice system response in tackling crimes against journalists; to support journalists and their employers to build the resources they need to protect personal safety; to help online platforms to tackle the wider issue of abuse online; and to improve public recognition of the value of journalists.¹⁰⁰

While a widely recognised laudable development, some have noted that this commitment by the government should inform and be aligned with UK foreign policies, including the UK's leading role in the Media Freedom Coalition, and it also should also link with the UK's work and

⁹² www.gov.uk/government/publications/national-action-plan-for-the-safety-of-journalists/national-action-plan-for-the-safety-of-journalists

⁹³ International Federation of Journalists, 'UK: Government publishes first ever national action plan to protect journalists', 9 March 2021, www.ifj.org/media-centre/news/detail/category/press-releases/article/uk-government-publishes-first-ever-national-action-plan-to-protect-journalists.html

⁹⁴ The National Union of Journalists, *NUJ Members' Safety Survey* (November 2020), www.nuj.org.uk/resource/nuj-safety-report-2020.html

⁹⁵ NUJ, n.90

⁹⁶ Press Gazette, 'Boris Johnson says 'cowardly' abuse of journalists must end as Government publishes action plan', 9 March 2021, www.pressgazette.co.uk/journalist-safety-action-plan-uk/

⁹⁷ Press Gazette, 'Local reporter hopes jailing of Facebook abuser shows journalists are not 'fair game'', 28 February 2020, www.pressgazette.co.uk/local-reporter-hopes-jailing-of-facebook-abuser-rape-threat-shows-journalists-not-fair-game/

⁹⁸ BBC, 'Patricia Devlin: Abuse from paramilitaries 'worse for women reporters'', 15 February 2021, www.bbc.co.uk/news/uk-northern-ireland-56064794; The Irish News, 'Graffiti targeting Irish News journalists Allison Morris widely condemned', 20 February 2021, www.irishnews.com/news/northernirelandnews/2021/02/20/news/graffiti-targeting-irish-news-journalist-allison-morris-widely-condemned-2229766/

⁹⁹ Press Gazette, n.92

¹⁰⁰ N.88.

engagement with multilateral organisations, and to its international development policies to promote strong media globally.¹⁰¹

It is vital that the UK continues with this commitment to uphold media freedom around the world by setting this example – the IBAHRI welcomes the government’s National Action Plan, a preliminary step towards protecting journalists and calls for it to be implemented in a timely and well-resourced manner backed by solid analysis and consultation.

¹⁰¹ Article 19, ‘UK: Plan to protect journalists is an important step towards enforcement’, 10 March 2021, www.article19.org/resources/uk-plan-to-protect-journalists-is-an-important-step-towards-enforcement/

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.

Turkey

The Council of Europe Committee of Ministers has called on the Turkish government to implement binding European Court of Human Rights judgments and release human rights defender Osman Kavala and politician Selahattin Demirtaş¹⁰². In December 2020, the IBAHRI and the International Commission of Jurists released a report¹⁰³ which documented a range of human rights violations in the 'Gezi Park' trial.

Amnesty International stated that both Mr. Kavala and Mr. Demirtaş have been arbitrarily and unjustly deprived of their liberty for years, despite the binding Court decisions of release¹⁰⁴ adding that their 'continued detention makes a mockery of President Erdogan's government's attempts to whitewash systemic human rights abuses by unveiling a meaningless Human Rights Action Plan'. The IBAHRI supports calls for Turkish authorities to 'allow human rights defenders to do their work and stop putting undue pressure on their judges. It is high time that states across Europe tell Turkey that prosecuting and imprisoning people for political reasons is unacceptable'.

Senegal

On 3 March 2021, demonstrations broke out across Senegal following the arrest of a prominent opposition leader, Mr. Ousmane Sonko, head of the political party Patriots of Senegal for Work, Ethics, and Fraternity (PASTEF) in the capital, Dakar.¹⁰⁵ According to Human Rights Watch and reporting by national and international rights groups, security forces fired teargas¹⁰⁶ and, in some cases, live bullets¹⁰⁷ to disperse the protests and rounded up at least 100 people for arrest.¹⁰⁸ As

¹⁰² Human Rights Watch; "Free Politician after European Court Ruling"; March 4, 2021' www.hrw.org/news/2021/03/04/turkey-free-politician-after-european-court-ruling

¹⁰³ ICJ, Turkey: ICJ and IBAHRI release report highlighting trial violations of Gezi Park defendants and call for immediate release of Osman Kavala, 16 December 2020, www.icj.org/turkey-icj-and-ibahri-release-report-highlighting-trial-violations-of-gezi-park-defendants-and-call-for-immediate-release-of-osman-kavala/

¹⁰⁴ Amnesty International; 'Turkey: Failure to free Osman Kavala and Selahattin Demirtaş makes mockery of Erdogan's Human Rights Action Plan', 12 March 2021, www.amnesty.eu/news/turkey-failure-to-free-osman-kavala-and-selahattin-demirtas-makes-mockery-of-erdogans-human-rights-action-plan/

¹⁰⁵ Human Rights Watch, 'Senegal: Respect Free Expression, Assembly - Investigate Deaths, Injuries of Protestors, Release those Arbitrarily Detained', 12 March 2021, www.hrw.org/news/2021/03/12/senegal-respect-free-expression-assembly

¹⁰⁶ Africa Radio, 'Tear Gas Firing During a Rally in Support of the Opponent Sonko', 8 March 2021 www.africaradio.com/news/senegal-tirs-de-gaz-lacrymogene-lors-d-un-rassemblement-de-soutien-a-l-opposant-sonko-182629

¹⁰⁷ France24, 'Senegal: Video Documents Live Ammunition on Crowds in Dakar', 9 March 2021, <https://observers.france24.com/fr/afrique/20210309-senegal-dakar-plateau-nervis-tirs-balles-reelles-fusil-manifestation-ousmane-sonko>

¹⁰⁸ MediaActu, 'Riots in Senegal: The Results of the Arrests', 10 March 2021, <https://mediaactu.com/societe/emeutes-au-senegal-le-bilan-des-arrestations/>

a result, many protesters responded by throwing rocks at the security forces, looting and burning tires, cars and other property, but others were reported to be peaceful.

The protests began as Mr. Sonko headed to court in Dakar for a hearing to respond to a rape accusation that he assaulted a woman who worked in a massage parlour. Mr. Sonko, however, denies the allegation. He has resolved that the case is politically motivated to stop him running again in elections and has called for calm, asking protesters to leave the issue to the courts.¹⁰⁹ Police stopped Mr. Sonko's convoy en route and charged him with disturbing public order and participating in an illegal demonstration. Mr. Sonko was held at the gendarmerie base in Dakar's Colobane neighbourhood, then released on 8 March under judicial supervision.¹¹⁰

While Mr. Sonko's court hearing and subsequent arrest sparked the demonstrations in Dakar and other cities, many people took to the streets to express other grievances, including the increasing lack of jobs, especially for youth, and a general deterioration of the economy because of the Covid-19 pandemic and related restrictions.¹¹¹ Some protesters also said they were increasingly frustrated by the lack of progress on democratic reforms and viewed Mr. Sonko's arrest as a move to eliminate the political opposition, given that other political opponents, including Mr. Karim Wade and Mr. Khalifa Sall, had already been arrested and sidelined.¹¹²

Amnesty International documented the deaths of at least eight people during the demonstrations, some 'caused by the use of excessive force and firearms by security forces'¹¹³ and Senegal's Red Cross reported that six people died and at least 590 were injured, including 232 who were transferred to health centres for treatment.¹¹⁴ Nationwide internet disruptions were also reported for much of the day on 5 March, making it difficult for national and international journalists, human rights activists and other people to communicate, get information or report on unfolding events.¹¹⁵

Both international and domestic human rights law, including the Senegalese Constitution¹¹⁶, protect the right to freedom of assembly and expression and prohibit the excessive use of force by law enforcement officials. Indeed, the United Nations Basic Principles on the Use of Force and

¹⁰⁹ BBC, 'Senegal Protests: Ousmane Sonko calls for Bigger Protests after Rape Charge', 9 March 2021, www.bbc.co.uk/news/world-africa-56323444

¹¹⁰ The Africa Report, 'Senegal: Opposition Leader Ousmane Sonko Released under Judicial Supervision', 10 March 2021, www.theafricareport.com/70906/senegal-opposition-leader-ousmane-sonko-released-under-judicial-supervision/

¹¹¹ BBC, 'Senegal Protests: The Country is 'on the verge of an apocalypse'', 7 March 2021, www.bbc.co.uk/news/world-africa-56311673

¹¹² BBC Africa, 'Ousmane Soko: Is there still Opposition in Senegal?', 4 March 2021, www.bbc.com/afrique/monde-56261281

¹¹³ Amnesty International, 'Senegal: Restraint needed as country-wide protests planned after eight died last week', 8 March 2021, www.amnesty.org/en/latest/news/2021/03/senegal-restraint-needed-as-protests-planned/

¹¹⁴ Dakaractu, 'Demonstrations in Senegal: 590 wounded rescued, 232 victims evacuated to health structures with all kinds of injuries, 06 dead (Red Cross)', 9 March 2021, www.dakaractu.com/Manifestations-au-Senegal-590-blesses-secourus-232-victimes-evacuees-vers-les-structures-sanitaires-avec-toutes-sortes_a200792.html

¹¹⁵ NetBlocks, 'Social media and messaging apps disrupted in Senegal amid political unrest', 5 March 2021, <https://netblocks.org/reports/social-media-and-messaging-apps-disrupted-in-senegal-amid-political-unrest-eA1R5pBp>

¹¹⁶ Constitution of the Republic of Senegal, 2001, as amended to 2016, Art. 8.

Firearms¹¹⁷ provide that law enforcement officials may use force only in proportion to the seriousness of the offense, and that the intentional use of lethal force is permitted only when strictly unavoidable to protect life. International human rights standards also require internet-based restrictions to be both necessary and proportionate as illustrated by the repeated condemnations from the UN Human Right Council surrounding internet shutdowns by governments, reiterating that human rights apply online just as they do offline.¹¹⁸

The IBAHRI condemns the approach taken by Senegalese authorities and restates the importance of upholding international standards for freedom of expression and assembly. Rather than cracking down on peaceful protesters, the IBAHRI urges authorities to work to address the concerns of Senegalese citizens, including by advancing democratic governance and the rule of law and protecting basic economic rights for everyone.

Thailand

On 8 March 2021, three protest leaders were among 18 activists in Thailand indicted by the state prosecutor pending their trial for insulting the country's powerful monarchy. The jailed protesters had broken traditional taboos by criticising King Maha Vajiralongkorn, risking prosecution under a strict *lèse-majesté* law that makes insulting or defaming the king, queen, heir and regent punishable by up to 15 years in prison.¹¹⁹

The three activists, Panusaya Sithijirawattanakul, Panupong Jadnok and Jatupat Boonpattaraksa, face charges under Section 112 of the Criminal Code, which criminalises defamation, insults and threats to members of the monarchy. All 18 activists face sedition charges for anti-government rallies. The three denied all charges, but the Bangkok Criminal Court rejected their bail request on the grounds they could re-offend and will be imprisoned until their trial set for 15 March.¹²⁰ Chaiamorn 'Ammy' Kaewwiboonpan, also one of the 18 indicted, was already in police custody in a separate case under Section 112.¹²¹

These indictments, and collateral detentions of protest leaders, represent the latest developments in an escalating crackdown on a youth-led protest movement that has advanced demands to reform the monarchy as explored in previous editions of this Bulletin. In fact, according to Thai Lawyers for Human Rights, police have opened investigations into at least 59 individuals under Section 112 since 24 November 2020.¹²² Most are prominent activists

¹¹⁷ OHCHR, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (A/CONF.144/28/Rev.1).

¹¹⁸ Access Now, 'UN Passes Landmark Resolution Condemning Internet Shutdowns', 1 July 2016, www.accessnow.org/un-passes-resolution-condemning-internet-shutdowns/

¹¹⁹ Article 19, 'Thailand: End Legal Harassment of Protest Leaders', 8 March 2021, www.article19.org/resources/thailand-end-legal-harassment-of-protest-leaders/

¹²⁰ Reuters, 'Thailand Jails more Protest Leaders until Trial for Royal Insults', 8 March 2021, www.reuters.com/article/us-thailand-protests/thai-prosecutor-indicts-18-over-anti-government-protests-idUSKBN2B00ET

¹²¹ The Nation Thailand, 'Court Denies Bail for Singer 'Ammy' over Alleged Lèse-Majesté, Arson Charges', 4 March 2021, www.nationthailand.com/news/30403286

¹²² Thai Lawyers for Human Rights, 'The Number of Prosecutions under "Lèse-Majesté" from November 24, 2020 – March 15, 2021', 15 March 2021, <https://tlhr2014.com/en/archives/24103>

associated with the protest movement with several facing investigations in multiple cases and could spend decades behind bars if prosecuted and convicted.¹²³

Human rights experts and bodies have repeatedly warned against *lèse-majesté* laws and called on Thailand to repeal Section 112. In 2017, the United Nations Special Rapporteur on the promotion of freedom of opinion and expression, David Kaye, called on the Thai authorities to desist the use of *lèse-majesté* provisions as a political tool to stifle critical speech.¹²⁴ Indeed, Section 112 does not comply with the Article 19 of the International Covenant on Civil and Political Rights, which protects the right to freedom of expression. While the right to freedom of expression can be limited to protect the reputation of others, criminal penalties are never a proportionate penalty for reputational damage. Moreover, laws offering special protection to heads of state and high-ranking public officials invert the fundamental democratic principle that the government is subject to public scrutiny.

The IBAHRI joins calls imploring Thai authorities to release all those detained under Section 112 and to ensure its timely repeal.

¹²³ Article 19, 'Thailand: Repeal Repressive Lèse-Majesté Provision', 4 March 2021, www.article19.org/resources/thailand-lese-majeste/

¹²⁴ OHCHR, 'Thailand: UN Rights Expert Concerned by the Continued Use of Lèse-Majesté Prosecutions', 7 February 2017, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21149&LangID=E

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.

India

On 25 February 2021, the Indian government announced new guidelines for immediate publication and implementation. The sweeping new Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules 2021 are allegedly aimed at curbing misuse of social media, including for the spread of 'fake news.' The new rules provide the government with powers to remove online content qualified as 'objectionable', erasing people's right to privacy on social media and encrypted messaging apps¹²⁵.

The rules force companies to remove content that the government says is illegal within three days of being notified, including content that threatens 'the interests of the sovereignty and integrity of India' public order, decency, morality or incitement to an offence. The rules also state that platforms must hand over information about users to law enforcement upon request and that companies must appoint a resident Indian citizen to be a 'chief compliance officer' who will be criminally liable for any failure to comply with the rules.¹²⁶

The rules allow for greater state control over online content, weaken encryption and seriously undermine the right to freedom of expression online. Opponents have argued that the new restrictions 'violate free expression and privacy rights in response to international critics of its handling of the farmers' protests'¹²⁷. More broadly, the regulations have been branded 'palpably illegal'¹²⁸, 'anti-democratic' and 'unconstitutional'¹²⁹ and are said to be part of a wider push toward 'digital authoritarianism,' including internet shutdowns and arrests of journalists. There is a fear that the implementation of the rules will result in 'encouraging internet platforms to over-censor content, require dangerous unproven AI-based content regulation tools, retain vast amounts of user data for handing over to the government, and undermine end-to-end encryption crucial for cybersecurity and individual privacy'¹³⁰.

Earlier this year, Prime Minister Narendra Modi's government sent orders to social media platform, Twitter, calling for the suspension of more than 1,000 accounts and posts, claiming that they disseminated 'fake news' about the protests and India's agricultural laws¹³¹, as well as

¹²⁵ Human Rights Watch, India: Tech firms should uphold privacy, 11 March 2021, www.hrw.org/news/2021/03/11/india-tech-firms-should-uphold-privacy-free-speech

¹²⁶ TIME, India's New Internet Rules Are a Step Toward 'Digital Authoritarianism,' Activists Say. Here's What They Will Mean, 12 March 2021, <https://time.com/5946092/india-internet-rules-impact/>

¹²⁷ Article 19, India: Tech firms should uphold privacy, free speech, 11 March 2021, www.article19.org/resources/india-tech-firms-should-uphold-privacy-free-speech/

¹²⁸ The Guardian, 'Wolf in watchdog's clothing': India's new digital media laws spark fears for freedoms', 11 March 2021, www.theguardian.com/world/2021/mar/11/wolf-in-watchdogs-clothing-indias-new-digital-media-laws-spark-censorship-fears

¹²⁹ Internet Freedom Foundation, Dear MEITY, withdraw the new IT Rules! 23 March 2021, <https://internetfreedom.in/withdraw-the-it-rules/>

¹³⁰ AccessNow, Indian authorities tighten control over online content, 25 February 2021, www.accessnow.org/indian-authorities-tighten-control-over-online-content/

¹³¹ DW, India protests: Twitter suspends 'harmful' accounts, 10 February 2021, www.dw.com/en/india-protests-twitter-suspends-harmful-accounts/a-56524773

inciting violence, invoking a law under which it has the power to direct online intermediaries and internet service providers to block certain content without providing any explanation. On 8 February, fresh reports emerged of a new order having been sent by the Ministry on 4 February, sharing a list of 1,178 more accounts that it wanted removed¹³². However, after initially blocking accounts, Twitter refused to comply with all the government's requests to censor the accounts of protesters and those discussing their cause, in some cases citing the country's own free speech laws¹³³. The IT rules are the latest and most extreme attempt by the state to apply pressure on social media companies.

In March 2021, India's democracy rating was downgraded from 'free' to 'partly free' by NGO Freedom House¹³⁴, which cited among other factors the government's 'rising intimidation of academics and journalists.' The IBAHRI remains concerned at the recent crackdown on free expression in India and call for the new IT rules to be immediately suspended. In addition, we will continue to monitor developments closely, including a recent legal challenge against the rules which was raised in Delhi high court by several online publishers¹³⁵.

Russia

On 10 March 2021, the Russian agency responsible for ensuring compliance with media and telecommunications laws, Roskomnadzor, announced that it would slow down Twitter on '100 percent of mobile services and 50 percent desktop services.' The reason behind this reaction is the alleged failure to remove 3,000 materials the authorities deemed unlawful. This matter comes weeks after Russian authorities accused Twitter and others of failing to delete posts it said illegally urged children to take part in anti-Kremlin protests.¹³⁶

Although Russia did not impose strict measures compared to countries like China¹³⁷, as domestic political tensions have risen this year over the arrest of Alexei Navalny, which triggered national protests, it has implemented a tougher policy towards the social media platform¹³⁸. The slowdown is to be facilitated by Deep Packet Inspection (DPI) technology, which can be used to filter, reroute and block internet traffic. This is not the first-time authorities have tried to block social media platforms for failure to comply with oppressive laws. However, this is the first reported attempt to restrict access to a large social media platform facilitated by this technology¹³⁹.

¹³² Internet Freedom Foundation, Government censorship and the dire need for transparency, 8 February 2021, <https://internetfreedom.in/government-censorship-and-the-dire-need-for-transparency/>

¹³³ Financial Times, Twitter feels the heat as India tightens grip on social platforms, 16 February 2021, www.ft.com/content/4cad0ce3-6fba-4cfb-b883-1efde891ed4a

¹³⁴ Freedom House, Freedom in the World 2021, <https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege>

¹³⁵ The Guardian, n.127

¹³⁶ Business Insider: Russia slowed down Twitter's speed and threatened a total block after the site allegedly failed to delete banned content, 10 March 2021, www.businessinsider.com/russia-slows-twitters-speed-threatens-total-block-over-content-row-2021-3?IR=T

¹³⁷ Access Now; Internet shutdowns report: Shattered dreams and lost opportunities, 3 March 2021. <https://www.accessnow.org/keepiton-report-a-year-in-the-fight/>

¹³⁸ Business Insider, n.113.

¹³⁹ Human Rights Watch, Russia Slows Down Twitter Access, 10 March 2021, www.hrw.org/news/2021/03/10/russia-slows-down-twitter-access

Russian authorities are still slowing Twitter and many other websites, including government sites, for some users. The Roskomnadzor has threatened to block Twitter entirely if it does not comply with Russian laws. According to AccessNow, Russian users and digital rights activists are adapting to the growing censorship by creating tools to test the loading speed of Twitter and related resources and are using Virtual Private Networks (VPNs) and other circumvention tools and techniques to access blocked online resources.¹⁴⁰

Social media companies: Facebook

On 16 March 2021, social media company, Facebook released a global corporate human rights policy¹⁴¹. Facebook's Director for Human Rights, Miranda Sissons stated that the new policy 'sets out the human rights standards we will strive to respect as defined in international law including the United Nations Guiding Principles on Business and Human Rights'. These approaches include '(1) applying human rights policies; (2) conducting human rights due diligence and disclosure; (3) providing access to remedy; (4) maintaining oversight, governance, and accountability; and (5) protecting human rights defenders'¹⁴².

The most critical human rights issues, such as risks to freedom of expression, will be reported to the company's board of directors. The company has also committed to produce an annual public report on how it is addressing human rights concerns stemming from its products, policies or business practices. The policy also introduces a fund to support those defending human rights.

AccessNow welcomed the new policy, noting the extensive list of regional and international human rights frameworks and guidelines that Facebook commits to respect. Going beyond what other companies reference, the organisation listed initial key recommendations for Facebook to take on:

- Ensuring that the Facebook human rights team is meaningfully involved in senior-level decisions that affect human rights and are supported to carry out cross-functional implementation;
- Heeding its own shareholders' call to appoint a member to the Board of Directors with a high level of human and/or civil rights expertise; and
- Providing regular updates on the implementation of this policy, subject to stakeholder review.¹⁴³

¹⁴⁰ AccessNow, Russia throttled Twitter to censor content — Here's what happens next, 15 March 2021, www.accessnow.org/russia-throttled-twitter/

¹⁴¹ <https://about.fb.com/wp-content/uploads/2021/03/Facebooks-Corporate-Human-Rights-Policy.pdf>

¹⁴² Forbes, Facebook Promises More Support For Human Rights, 17 March 2021, www.forbes.com/sites/emmawoollacott/2021/03/17/facebook-promises-more-support-for-human-rights/?sh=f1f057c7353a

¹⁴³ AccessNow, After nearly two decades in the dark, Facebook releases its human rights policy, 16 March 2021, www.accessnow.org/facebook-human-rights-policy/