



## Human Rights Institute

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human rights worldwide

### **IBAHRI Freedom of Expression Bulletin**

**For Release: 06 November 2020**

In observance of the International Day to End Impunity for Crimes against Journalists (2 November 2020), **Lord David Neuberger** and **Amal Clooney, Chair and Deputy Chair respectively of the High Level Panel of Legal Experts on Media Freedom**<sup>1</sup> issued the following statement:

*'According to UNESCO, more than 150 journalists have been killed for their work in the last two years alone.<sup>2</sup> In many of these cases the suspected killer is a state official, and it is estimated that a remarkable 9 out of 10 murders of journalists go unpunished<sup>3</sup>. Thousands of journalists also face serious abuse, including through kidnappings, physical and sexual violence, arbitrary detention and other forms of intimidation and harassment.*

*The importance of independent journalism in the midst of a pandemic could not be clearer. Silencing journalists and others who tried to report on the virus was deadly as it allowed the disease to spread while people were in the dark. Yet, the Covid crisis has exacerbated many of the existing challenges for a free press. We are witnessing the erosion of the rule of law and the weakening of judicial systems and accountability mechanisms across the world, including in some democratic states. And, as serious crimes against journalists continue to go unpunished, many of them are deterred from continuing their work.*

*In its report on the **Use of Targeted Sanctions to Protect Journalists**,<sup>4</sup> the High Level Panel of Legal Experts on Media Freedom reviewed existing human-rights based sanctions regimes and concluded that 'consistent use of targeted sanctions when journalists are killed and arbitrarily imprisoned would help to ... shift the default from impunity to accountability'. During November, the*

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<sup>1</sup> The International Bar Association's Human Rights Institute serves as Secretariat to the High Level Panel of Legal Experts on Media Freedom. Learn more, [www.ibanet.org/IBAHRIsecretariat.aspx](http://www.ibanet.org/IBAHRIsecretariat.aspx).

<sup>2</sup> UNESCO, Director-General of UNESCO, on the occasion of the International Day to End Impunity for Crimes against Journalists, 2 November 2020, <https://unesdoc.unesco.org/ark:/48223/pf0000374737>

<sup>3</sup> GOV.UK, 'International Day to End Impunity for Crimes Against Journalists 2020: Media Freedom Coalition statement', 2 November 2020, [www.gov.uk/government/news/statement-by-the-media-freedom-coalition-on-international-day-to-end-impunity-for-crimes-against-journalists#:~:text=In%209%20out%20of%2010,against%20journalists%20and%20the%20media](http://www.gov.uk/government/news/statement-by-the-media-freedom-coalition-on-international-day-to-end-impunity-for-crimes-against-journalists#:~:text=In%209%20out%20of%2010,against%20journalists%20and%20the%20media).

<sup>4</sup> Amal Clooney, 'Report on the Use of Sanctions to Protect Journalists', [www.ibanet.org/Media-Freedom-Sanctions-report-launch-2020.aspx](http://www.ibanet.org/Media-Freedom-Sanctions-report-launch-2020.aspx)

*Panel will launch three additional reports recommending other initiatives that states should take to ensure that more robust international mechanisms are in place to protect the right to a free press. States, including members of the Media Freedom Coalition<sup>5</sup>, must exhibit leadership to ensure that international human rights protections do not just exist on paper and that those who abuse journalists are held to account’.*

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<sup>5</sup> Media Freedom Coalition: an overview, [www.gov.uk/government/publications/media-freedom-coalition-an-overview/media-freedom-coalition-an-overview](https://www.gov.uk/government/publications/media-freedom-coalition-an-overview/media-freedom-coalition-an-overview)

### **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.<sup>6</sup> 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.

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<sup>6</sup> 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.

### India

The International Federation of Journalists (IFJ) and International Press Institute (IPI) recently called on the Indian government to cease use of sedition laws (Section 124A of the Indian Penal Code punishes sedition with three years to life imprisonment) and other legal sanctions to silence independent journalists.<sup>7</sup> Civil society groups and the media are being targeted in India in a concerted effort to shrink civic space, 'yet another example of the Government of India's vicious crackdown on freedom of expression and dissent'<sup>8</sup>. As many as 55 journalists faced arrest with 'First information reports' (FIR) made against them, physical assaults or alleged destruction of their property for reporting on Covid-19 particularly during the lockdown period earlier this year.<sup>9</sup>

The government's attempts to stifle journalists is combined with targeting and harassing local and international NGOs investigating human rights abuses in India. From 28-29 October, the authorities carried out several raids on the offices of NGO activists' homes as well as a newspaper office in Jammu and Kashmir, Delhi, and Bangalore<sup>10</sup>. The National Investigation Agency has also raided the offices of six NGOs located in Jammu and Kashmir.<sup>11</sup> The basis for the raids is that the NGOs are raising funds to carry out secessionist and separatist activities in Jammu and Kashmir.<sup>12</sup> On 19 October, the Jammu and Kashmir government sealed the Srinagar office of the newspaper *Kashmir Times* in an apparent reprisal against its executive editor, Anuradha Bhasin, who filed a Supreme Court petition challenging the government's telecommunications shutdown<sup>13</sup>. In October 2020, Amnesty International was forced to close on the basis that it received foreign

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<sup>7</sup> International Federation of Journalists, 'India: Media freedom campaigners call on government to halt use of sedition laws against journalists', 21 October 2020, [www.ifj.org/media-centre/news/detail/category/press-releases/article/india-media-freedom-campaigners-call-on-government-to-halt-use-of-sedition-laws-against-journalists.html](http://www.ifj.org/media-centre/news/detail/category/press-releases/article/india-media-freedom-campaigners-call-on-government-to-halt-use-of-sedition-laws-against-journalists.html)

<sup>8</sup> Human Rights Watch, 'India: Counterterrorism Raids Targeting Peaceful Critics', 30 October 2020, [www.hrw.org/news/2020/10/30/india-counterterrorism-raids-targeting-peaceful-critics](http://www.hrw.org/news/2020/10/30/india-counterterrorism-raids-targeting-peaceful-critics)

<sup>9</sup> Rights & Risk Analysis Group, 'India: Media's Crackdown During COVID-19 Lockdown', 15 June 2020, [www.rightsrisks.org/banner/india-medias-crackdown-during-covid-19-lockdown-2/](http://www.rightsrisks.org/banner/india-medias-crackdown-during-covid-19-lockdown-2/)

<sup>10</sup> Human Rights Watch, n.3

<sup>11</sup> Scroll.in, 'For second day, NIA raids six NGOs, trusts in Delhi, Kashmir in terror funding case', 29 October 2020, <https://scroll.in/latest/977074/for-second-day-nia-raids-six-ngos-trusts-in-delhi-srinagar-in-terror-funding-case>

<sup>12</sup> Scroll.in, n.6

<sup>13</sup> Human Rights Watch, n.3

funding and therefore breached compliance with local financial regulations.<sup>14</sup> This is part of the wider strategy to seize documents containing information about victims and their families' testimonies on arbitrary detention, enforced disappearances and torture by state security forces.<sup>15</sup>

UN High Commissioner for Human Rights, Michelle Bachelet, remarked that the crackdown was an 'effort to deter and punish NGOs for human rights reporting and advocacy that the authorities perceive as critical in nature'<sup>16</sup>. Maria Arena, Chair of the European Parliament's Subcommittee on Human Rights expressed her 'great concern' over the situation in India, noting that 'journalists and other peaceful critics continue to be arrested under draconian counter-terrorism and sedition laws, while human rights defenders are unceasingly and severely targeted by the authorities' and calling for India to uphold its pledge to foster 'the genuine participation and effective involvement of civil society in the promotion and protection of human rights'<sup>17</sup>. The IBAHRI echoes these calls and will continue to monitor the situation for the media, activists and NGOs in India.

## **Malaysia**

On 23 October 2020, the Prime Minister of Malaysia sought an audience with King Yang Di-Pertuan Agong to request that an emergency be declared in an effort to control the spread of Covid-19. This would have allowed the executive branch access to using emergency powers accorded under Article 150(8) the Federal Constitution of Malaysia without judicial oversight.<sup>18</sup> In a surprising turn of events, the King rejected the plan proposed by the Prime Minister and called for an end to all lobbying.<sup>19</sup> During this period, several citizens took to social media to share their views on the monarchy. One such posting was made by Ronnie Liu, a member from an opposition party, Sungai Pelek, who shared a post stating: 'Now in Bangkok, they say no to the King'. The Royal Malaysia Police have since opened investigations into the social media posts for potential violations to the Sedition Act 1948 and the Communications and Multimedia Act 1998.<sup>20</sup> The University of Malaya has now decided to investigate a Facebook post by the University of Malaysia Association of New Youth (UMANY) stating that the 'Yang Di-Pertuan Agong Should Not Interfere in National Affairs'. It is commonplace that anyone who openly or publicly makes comments portraying the monarchy in a negative light will be investigated. On 4 November 2020,

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<sup>14</sup> Financial Times, 'Amnesty's departure from India is a grim sign of things to come', 4 October 2020, [www.ft.com/content/6a570690-d45a-4dd1-94b0-1ce2682d653c](http://www.ft.com/content/6a570690-d45a-4dd1-94b0-1ce2682d653c)

<sup>15</sup> Financial Times, n.9

<sup>16</sup> Office of the High Commissioner, United Nations Human Rights, 'Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India', 20 October 2020, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26398&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26398&LangID=E)

<sup>17</sup> European Parliament, 'Maria Arena calls on the Indian government to meet its human rights commitments', 5 October 2020, [www.europarl.europa.eu/news/en/press-room/20201005IPR88507/maria-arena-calls-on-the-indian-government-to-meet-its-human-rights-commitments](http://www.europarl.europa.eu/news/en/press-room/20201005IPR88507/maria-arena-calls-on-the-indian-government-to-meet-its-human-rights-commitments)

<sup>18</sup> Malaysia Public Law, 'Challenging a Proclamation of Emergency', 23 October 2020, <https://malaysianpubliclaw.com/challenging-a-proclamation-of-emergency/>

<sup>19</sup> The Straits Times, 'Malaysia's King rejects state of emergency plan, PM Muhyiddin to discuss decision with Cabinet', 25 October 2020, [www.straitstimes.com/asia/se-asia/malaysias-king-says-no-need-for-emergency](http://www.straitstimes.com/asia/se-asia/malaysias-king-says-no-need-for-emergency)

<sup>20</sup> Article 19, 'Malaysia: Stop policing online dissent, repeal the Sedition Act', 28 October 2020, [www.article19.org/resources/malaysia-stop-policing-online-dissent-repeal-the-sedition-act/](http://www.article19.org/resources/malaysia-stop-policing-online-dissent-repeal-the-sedition-act/)

the Malaysian Bar called for the establishment of a Law Commission tasked to review and repeal 'draconian laws so that we may safeguard the human rights and welfare of the people', including the Sedition Act 1948. The IBAHRI welcomes calls to stop the targeting of the media, civil society, social media users and the political opposition with scrapping of such laws like the Sedition Act 1948 which is overly broad and subject to abuse. We also appeal for all prosecutions based on sedition to be dropped and close all investigations based on the exercise of the right to free expression or peaceful assembly.

## **Tanzania**

In the previous issue of this Bulletin, the IBAHRI expressed concern at the pre-election atmosphere in Tanzania and the manner in which the law was being used to stifle media freedom, including execution of restrictions on access and content under the pretext of managing fake news, as well as shrinking of the civic space.

Following President John Magufuli's win, Tanzania's post-election environment is marred with calls for a vote rerun by opposition parties after allegations of fraud and a crackdown on the right to access information and the freedom of expression during the elections.<sup>21</sup> Chair of opposition parties, including Freeman Mbowe chair of the Chadema opposition party and Zitta Kabwe of the Alliance for Change and Transparency (ACT-Wazalendo) have claimed that election fraud could have taken place through the manipulation of voters' registration records and use of security forces to disrupt the vote.<sup>22</sup> Other allegations include interference with the right to political participation given insufficient voting ballots, police barring polling agents from the opposition and harassment of local candidates on polling day.<sup>23</sup>

Shortly after appeals for protest were made following the election result, key opposition leaders including Tundu Lissu and Freeman Mbowe were arrested and questioned by the police on the basis that any demonstration without a permit is illegal.<sup>24</sup> The opposition leaders are now allegedly being charged with terrorism offences in an effort to deny said individual's bail.<sup>25</sup> Several other opposition figures arrested on terrorism-related charges including Godbless Lema, a former member of parliament; Isaya Mwita, a former mayor of Dar es Salaam; and Boniface Jacob, the former mayor of Ubungo municipality<sup>26</sup>. Approximately a further 300 activists from Chadema and ACT-Wazalendo parties have also been detained or 'abducted' in recent days, opposition officials said<sup>27</sup>. The heavy police presence on the streets has also limited the ability of

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<sup>21</sup> Bangkok Post, 'Tanzania votes in election marred by violence, fears of fraud', 28 October 2020, [www.bangkokpost.com/world/2009815/tanzania-votes-in-election-marred-by-violence-fears-of-fraud](http://www.bangkokpost.com/world/2009815/tanzania-votes-in-election-marred-by-violence-fears-of-fraud)

<sup>22</sup> Business Day, 'John Magufuli set to win an 'unfair' election in Tanzania, 27 October 2020 [www.businesslive.co.za/bd/world/africa/2020-10-27-john-magufuli-set-to-win-an-unfair-election-in-tanzania/](http://www.businesslive.co.za/bd/world/africa/2020-10-27-john-magufuli-set-to-win-an-unfair-election-in-tanzania/)

<sup>23</sup> Financial Times, 'Magufuli win second term in Tanzania presidential election', 31 October 2020, [www.ft.com/content/f01ba312-3e47-4f49-83d7-1da417f09b31](http://www.ft.com/content/f01ba312-3e47-4f49-83d7-1da417f09b31)

<sup>24</sup> Al-Jazeera, 'Tanzania: Lissu briefly detained amid wave of opposition arrests', 2 November 2020, [www.aljazeera.com/news/2020/11/2/tanzania-police-arrest-defeated-presidential-candidate-lissu](http://www.aljazeera.com/news/2020/11/2/tanzania-police-arrest-defeated-presidential-candidate-lissu)

<sup>25</sup> Al-Jazeera, n.5

<sup>26</sup> Al-Jazeera, 'Tanzania opposition leaders held, post-election protests foiled', 2 November 2020, [www.aljazeera.com/news/2020/11/2/tanzania-police-arrest-opposition-party-leader-ahead-of-protests](http://www.aljazeera.com/news/2020/11/2/tanzania-police-arrest-opposition-party-leader-ahead-of-protests)

<sup>27</sup> The Guardian, 'Tanzanian government cracks down on opposition after disputed election', 2 November 2020, [www.theguardian.com/world/2020/nov/02/tanzanian-opposition-figures-arrested-after-disputed-election](http://www.theguardian.com/world/2020/nov/02/tanzanian-opposition-figures-arrested-after-disputed-election)

citizens to protest against the election results due the increased intimidation perpetrated by the authorities.<sup>28</sup> Amnesty International stated that presence of police was a 'signal of an escalating attack on political opponents and dissent', further warning that the police 'must not be used as a tool of intimidation'.<sup>29</sup>

Foreign media were also unable to obtain accreditation to cover the elections.<sup>30</sup> Social media platforms like Twitter, Whatsapp, Facebook and Instagram were either blocked or restricted.<sup>31</sup> Some Google services including Gmail and Translate are generally or partially unavailable via Tanzania's leading network operators Vodacom, Airtel, Tigo, Halotel and ZanTel<sup>32</sup>. Only allowing SMS messaging during the elections, the Tanzania Communications Regulatory Authority (TCRA) issued a directive suspending bulk messaging and bulk voice calling services from 24 October 2020 till 11 November 2020. More specifically, the name of Tanzania's main opposition leader, Tundu Lissu, was barred from use. Tanzanians would not be able to send messages containing his name or the Opposition party name, 'Chadema'.<sup>33</sup> Following the reports of government censorship, Access Now and the #KeepItOn Coalition expressed alarm at the measures to stifle access to information and the right to free expression, also indicating that a 'total internet shutdown' could be 'next'<sup>34</sup>. Concerns about the protection of digital rights are exacerbated after the government revoked the Electronic and Postal Communications (Online Content) Regulations of 2018 earlier this year, only to replace it with the Electronic and Postal Communications (Online Content) Regulations of 2020 which bans 'news, statements or rumors for the purpose of ridicule, abuse or harming the reputation, prestige or status of the United Republic, the flag of the United Republic, the national anthem or the United Republic's symbol, national anthem or its logos'.<sup>35</sup> Many rights organisations have called for the amended law to be repealed,<sup>36</sup> given its overly broad and vague provisions which problematically criminalise speech and allow for harsh fines and penalties, restrict access to information, expand the list of prohibited content and automate censorship.

The IBAHRI is extremely concerned about credibility and transparency of the recent election in Tanzania that has encouraged a targeted crackdown against state opposition members and

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<sup>28</sup> Amnesty International, 'Tanzania: Post-election crackdown and intimidation underway with 'arrest and release' of opposition leaders', 30 October 2020, [www.amnesty.org/en/latest/news/2020/10/tanzania-post-election-crackdown-and-intimidation-underway-with-arrest-and-release-of-opposition-leaders/](http://www.amnesty.org/en/latest/news/2020/10/tanzania-post-election-crackdown-and-intimidation-underway-with-arrest-and-release-of-opposition-leaders/)

<sup>29</sup> Amnesty International, n.10

<sup>30</sup> Al-Jazeera, n.7

<sup>31</sup> Quartz Africa, 'Tanzania has blocked social media, bulk SMS as its election polls open', 28 October 2020, [qz.com/africa/1923616/tanzanias-magufuli-blocks-twitter-facebook-sms-on-election-eve/](https://qz.com/africa/1923616/tanzanias-magufuli-blocks-twitter-facebook-sms-on-election-eve/)

<sup>32</sup> Netblocks, 'Internet disrupted in Tanzania on eve of general elections', 27 October 2020, <https://netblocks.org/reports/internet-disrupted-in-tanzania-on-eve-of-presidential-elections-oy9abny3>

<sup>33</sup> Kawaha Tungu, 'Tanzania Suspends Bulk SMS Messaging as Airtel Blocks SMSes with 'Tundu' or 'Lissu' on its Network', 24 October 2020, [www.kahawatungu.com/tanzania-suspends-bulk-sms-messaging-as-airtel-blocks-smses-with-tundu-or-lissu-on-its-network/](http://www.kahawatungu.com/tanzania-suspends-bulk-sms-messaging-as-airtel-blocks-smses-with-tundu-or-lissu-on-its-network/)

<sup>34</sup> AccessNow, 'As Tanzania votes, government forces telecom companies to escalate censorship', 27 October 2020, [www.accessnow.org/tanzania-votes-government-forces-telcos-escalate-censorship/](http://www.accessnow.org/tanzania-votes-government-forces-telcos-escalate-censorship/)

<sup>35</sup> Index on Censorship, 'Tanzania: will Magufuli return to power in free and fair elections?', 23 October 2020, [www.indexoncensorship.org/2020/10/tanzania-will-magufuli-return-to-power-in-free-and-fair-elections/](http://www.indexoncensorship.org/2020/10/tanzania-will-magufuli-return-to-power-in-free-and-fair-elections/)

<sup>36</sup> AccessNow, 'Internet censorship in Tanzania: the price of free expression online keeps getting higher', 22 October 2020, [www.accessnow.org/internet-censorship-in-tanzania/](http://www.accessnow.org/internet-censorship-in-tanzania/)

dissident voices, including by the deadly use of force, arrests and attempts to stifle free expression, restrict peaceful protests and deny access to information. We will continue to monitor the situation and call on Tanzanian authorities to uphold its international human rights obligations, as well as release all individuals detained and cease interference with the internet and online platforms.

## **Thailand**

The government of Thailand's revoked the Emergency Decree on Public Administration in Emergency Situation, introduced on 15 October 2020, after failing to curb pro-democracy protests in Bangkok.<sup>37</sup> Prime Minister Prayuth Chan-ocha was given a three day deadline to submit his resignation, which ended on 25 October 2020. Instead, the Prime Minister opted to allow a Special Parliamentary Session to address the protestor's demands to avoid stepping down from his position.<sup>38</sup> However, the Special Parliamentary Session is not equipped to legislate and therefore the debates have been limited to the risk of Covid-19 spreading, violations of the law by student demonstrators and alleged interference with the royal motorcade during protests on 14 October.<sup>39</sup> As reported on in the last issue of this Bulletin, the vast demands of protestors include calls for reforms to the monarchy, a new constitution and for an end to the harassment of activists and government critics<sup>40</sup>, all items that were not on the agenda of the Special Parliamentary Session.

Additionally, it remains concerning that police authorities continue to file criminal charges against leaders of the demonstrations and other protestors for alleged crimes from sedition (Article 116 of the Thai Criminal Code) to the illegal use of a loudspeaker in public.<sup>41</sup> According to a new report by the Thai Lawyers for Human Rights and Article 19, since the beginning of 2020, Thai authorities have arrested or charged at least 173 individuals in relation to their protest activities. Many are accused of violating emergency measures, which carries a penalty of up to two years' imprisonment, or breaching the problematic Public Assembly Act. Others have been charged with sedition, a crime punished with up to seven years' imprisonment and many prominent activists and protest leaders face charges in multiple cases<sup>42</sup>. More recently, videos have circulated showing a slumped high profile protest leader, Panupong 'Mike Rayong' Jadnok, being carried from a police van to be transferred to a local hospital after purportedly being put in

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<sup>37</sup> JapanToday, 'Thailand cancels emergency decree in bid to calm protests', 22 October 2020 <https://japantoday.com/category/world/thailand-cancels-emergency-decree-in-bid-to-calm-protests>

<sup>38</sup> The Diplomat, 'Thai Parliament Opens Special Session Over Anti-Government Protests', 26 October 2020, <https://thediplomat.com/2020/10/thai-parliament-opens-special-session-over-antigovernment-protests/>

<sup>39</sup> The Diplomat, n.19

<sup>40</sup>IFEX, 'Thailand: 'End crackdown, respect the right to protest'', 28 October 2020, <https://ifex.org/thailand-end-crackdown-respect-the-right-to-protest/>

<sup>41</sup> The Seattle Times, 'Thai protest leader says movement won't back down on demand', 3 November 2020. [www.seattletimes.com/nation-world/thai-protest-leader-says-movement-wont-back-down-on-demand/](http://www.seattletimes.com/nation-world/thai-protest-leader-says-movement-wont-back-down-on-demand/)

<sup>42</sup> Article 19, 'Thailand: End crackdown, respect the right to protest', 25 October 2020, [www.article19.org/resources/thailand-end-crackdown-respect-the-right-to-protest/](http://www.article19.org/resources/thailand-end-crackdown-respect-the-right-to-protest/)



a chokehold in transit.<sup>43</sup> According to lawyers, high profile protest leaders were being unlawfully charged for offences they had previously plead not guilty to.<sup>44</sup>

Further, in attempts to restrict access to information, Thai authorities have taken steps to physically block access to protest sites and shut down transportation networks.<sup>45</sup> Authorities used aggressive efforts, including orders, in an attempt to secure the cooperation of Facebook, Twitter and other social media platforms in censoring online content. The Ministry of Digital Economy and Society sought to block Telegram, a messaging app used by protesters, and announced investigations into more than 300,000 web addresses allegedly containing illegal content<sup>46</sup>.

The IBAHRI condemns the continued crackdown on peaceful protestors in Thailand and the misuse of the law to facilitate it. The IBAHRI reminds the Thai authorities of its International human rights obligations under the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to peaceful protests (Article 21) and freedom of expression (Article 19). Additionally, UNHRC General Comment 37, on Article 21 of the ICCPR states that 'peaceful assemblies often have expressive functions, and that political speech enjoys particular protection as a form of expression, it follows that assemblies with a political message should enjoy a heightened level of accommodation and protection'.<sup>47</sup> Therefore Thai authorities must immediately ensure the safety of demonstrators and facilitate the implementation of fundamental rights.

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<sup>43</sup> Free Malaysia Today, '3 Thai protest leaders re-arrested, 1 carried from van', 31 October 2020, [www.freemalaysiatoday.com/category/world/2020/10/31/three-thai-protest-leaders-re-arrested-one-carried-from-van/](http://www.freemalaysiatoday.com/category/world/2020/10/31/three-thai-protest-leaders-re-arrested-one-carried-from-van/)

<sup>44</sup> Free Malaysia Today, n.25

<sup>45</sup> Free Malaysia Today, n.25

<sup>46</sup> Article 19, n.23

<sup>47</sup> Human Rights Committee, General Comment No. 37, CCPR/C/GC/37, 17 September 2020, para. 32.

## 2. Privacy and surveillance

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

Contact tracing apps are reported to be in operation in China, Czech Republic, Ghana, Hong Kong, Iceland, India, North Macedonia, Poland, Singapore and South Korea. The IBAHRI, along with many global privacy campaigners, activists and lawyers, is concerned about the implications of mass surveillance through these apps. Particularly whether the current Covid-19 pandemic is being used as a 'Trojan horse' to build a surveillance infrastructure that will long continue after the health threat has passed, or one that is largely dependent on political will to have conditions reviewed and revoked. In April 2020, Amnesty International, along with 100 other organisations, issued a statement calling for limits on this kind of surveillance.<sup>48</sup> The statement requests that states interested in Covid-19 containment projects comply with eight conditions endorsed by the IBAHRI:

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

### **European Union**

The European Commission (EC) has released a [statement](#) on a proposed new Covid-19 response framework to combat the second wave of coronavirus across Europe, which includes an additional set of measures that aim to increase access to fast testing, prepare for vaccination campaigns and facilitate safe travel when necessary.<sup>49</sup> The Commission's communication on additional Covid-19 response measures sets out the next steps in key areas to reinforce the EU's

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<sup>48</sup> Joint civil society statement: States use of digital surveillance technologies to fight pandemic must respect human rights (PDF), Amnesty International, 2 April 2020, [www.amnesty.org/download/Documents/POL3020812020ENGLISH.pdf](http://www.amnesty.org/download/Documents/POL3020812020ENGLISH.pdf)

<sup>49</sup> European Commission, Press statement, Coronavirus resurgence: Commission steps up action to reinforce preparedness and response measures across the EU, 28 October 2020, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1986](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1986)

response to the resurgence in cases, particularly in monitoring the spread of the disease through enhanced surveillance and cooperation among Member States.

Firstly, the EC stated that in order to track how the coronavirus spreads at a regional and a national level it is essential to improve the flow of information to allow informed decision-making. This is through ensuring accurate, comparable, comprehensive and timely information on epidemiological data, as well as on testing, contact tracing and public health surveillance. Furthermore, the EC highlighted the greater need to improve the sharing of data at EU level and called on Member States to provide all relevant data to the EC and to the European Centre for Disease Prevention and Control (ECDC). Additionally, the EC called on Member States to relaunch communication campaigns to counter false, misleading and dangerous information among the public, particularly on vaccinations.

Furthermore, the EC mentions that states need to make full use of contact tracing apps across borders, due to its capability in breaking transmission chains. In the EU thus far, there are 19 national contact tracing and warning apps, downloaded more than 52 million times. The commission has also launched an interoperable system, known as the 'European Federation Gateway Service',<sup>50</sup> that will link national apps across the EU, with Germany, Ireland and Italy already linked as of 19 October. 17 national apps already operate on decentralised systems meaning they can become interoperable within the coming weeks. This would lead to greater effectiveness and access to data in combating the viral spread. However, a mass surveillance programme of this nature must be met with equivalent safeguards for privacy, data protection and independent oversight.

Another surveillance measure includes 'Passenger Locator Forms', which help Member States undertake risk assessments of arrivals and enable contact tracing. A pilot in November will allow Member States to prepare for the launch and use of a common EU digital Passenger Locator Form. The monitoring of airline passengers will also be expected to fully comply with the GDPR.

The IBAHRI welcomes the European Commission's statement and encourages Member States to coordinate with the Commission's second wave response plan to ensure preparedness and effectiveness, and to safeguard fundamental rights during the resurgence. In doing so, the interconnected surveillance and tracking measures across the entire region raises serious privacy concerns, and as such, the IBAHRI calls on individual Member States, in cooperation with the EC, to ensure compliance with data protection laws every step of the way.

### **United Kingdom**

The UK government has revealed that the NHS COVID app operating in England and Wales has been fundamentally flawed since its release on 24 September, putting its 19 million users at far greater risk of infection. The contact tracing tool relies on Bluetooth technology to alert users when they have been near someone who has tested positive for coronavirus. It allows people to check their symptoms, try to book a test and 'check-in' to places they visit using a QR code system. The app relies on Google and Apple's built in technology (API) which has been described as 'ultra-

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<sup>50</sup> European Commission, Press statement, Coronavirus: EU interoperability gateway goes live, first contact tracing and warning apps linked to the system, 19 October 2020, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_1904](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1904)

secure' and does not send any identifying factors, or location data, to other users, the government or the NHS.<sup>51</sup>

However, the app failed to send notifications to users within the proximity of exposure because the incorrect settings to record whether a user was close enough to a symptomatic individual were set.<sup>52</sup> The proximity threshold programmed into the app was incorrectly set too high resulting in the failure to alert users that were in fact close enough to have contracted coronavirus, leaving potentially thousands unaware that they were exposed and were required to self-isolate, resulting in an extremely low number of warnings being sent out.

The issue was first accepted by the app's head of product, Randeep Sidhu, and director of product for Test and Trace, Gaby Appleton, in a Department for Health and Social Care [blog post](#) on 29 October, revealing that the developers were aware, since its release on 24 September, that the risk threshold needed to be lowered than had originally been designed, stating that 'the 'risk threshold' was due to be lowered, but this change did not take place at that time.' The post does not disclose why the fix did not occur ahead of the national release.

This issue is further compounded by the fact that android devices have been the worst impacted by this, resulting in the error having a disproportionate impact on low-income smartphone users.<sup>53</sup> Additionally, the large portion of phantom notifications regarding exposure, which the Department of Health told users to ignore,<sup>54</sup> were actually real. This creates further complications because when some users did not adhere to self-isolation after receiving an alert by the NHS app, then they would be unable to access their social grant, leaving workers forced to choose between health and financial hardship.<sup>55</sup>

Furthermore, although the privacy settings are amongst the most robust of available contact tracing apps, the anonymity of both identity and location would make it impossible to retroactively calculate whether more users would have been told to isolate had the threshold been set lower. The extent of privacy protection is in excess of what is necessary in the legitimate aim of controlling the spread of the virus, rendering it disproportionate. The app should allow the option for users to register their phone number, such as in Ireland, which would be securely stored with the NHS, thus catering to both privacy concerns and effectiveness. Another issue

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<sup>51</sup> Health Tech, Technology in the NHS, 'How the NHS COVID app is making the most of cutting-edge global technology', 29 October 2020, <https://healthtech.blog.gov.uk/2020/10/29/how-the-nhs-covid-19-app-is-making-the-most-of-cutting-edge-global-technology/>

<sup>52</sup> Sky News, 'Coronavirus: NHS COVID app failed to record potential exposures due to error', 01 November 2020, <https://news.sky.com/story/coronavirus-nhs-covid-app-failed-to-record-potential-exposures-due-to-error-12120910>

<sup>53</sup> Sky News, n.47

<sup>54</sup> BBC, 'NHS Covid app updated to 'fix' phantom messages', 13 October 2020, [www.bbc.com/news/technology-54522438](http://www.bbc.com/news/technology-54522438)

<sup>55</sup> Sky News, Coronavirus: People told to self-isolate stopped from claiming £500 grant by flaw in contact tracing app, 23 October 2020, <https://news.sky.com/story/coronavirus-people-told-to-self-isolate-stopped-from-claiming-500-grant-by-flaw-in-contact-tracing-app-12111795>

identified with the app include a revelation in September that the app was unable to log a third of England's positive tests.<sup>56</sup>

Although the app has since been updated to fix the bug and stop sending false alarms and phantom alerts, the ramifications are wide-reaching in its inability to mitigate the spread of Covid-19, as the UK moves into another lockdown during the second wave. In terms of Article 12(c) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to health includes a state's obligation to take necessary steps in 'the prevention, treatment and control of epidemic, endemic, occupational and other diseases.' The failure to fix the app when the requisite knowledge of the error was understood has affected several thousands' right to health as the UK government had a positive duty to ensure the app's functionality before release.

The IBAHRI is concerned by the delay in fixing the risk threshold, as well as the excessive shielding of the app's privacy, which has encroached on the right to health. Additionally, the IBAHRI calls on the UK government to indicate how the Department of Health will now mitigate the consequences of the bug, in contact tracing those anonymously exposed to the virus.

### **United States**

On 22 October, the Federal Bureau of Investigation (FBI) and the Cybersecurity and Infrastructure Security Agency (CISA) published two joint security advisories disclosing that Russian<sup>57</sup> and Iranian<sup>58</sup> state-sponsored hackers have infiltrated US government networks and voter registration data on the precipice of the US elections, with an aim to undermine, influence and interfere in the presidential election.

The report disclosed that an unnamed Iran-based actor had scanned state election websites searching for security vulnerabilities and gained access to at least Florida's voter registration. Thereafter, using the stolen information, the hackers sent threatening emails to at least 3,000 democratic voters' email addresses in several states, including Florida, posing as the Proud Boys, a far-right, white supremacy organisation, instructing recipients to vote for Donald Trump 'or we will come for you', and including voters' addresses.<sup>59</sup> The email contained a propaganda video, but a redaction error in it revealed that the origin was Iran. Vice news<sup>60</sup> confirmed that after the breach, details of the hacked accounts were publicly available online after a quick search of the name and state of the individual, representing a gross breach of the privacy rights of voters' who had their personal data infiltrated.

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<sup>56</sup> Healthcare IT News, 'NHS contact tracing app downloaded 10 million times despite glitch', 28 September 2020, [www.healthcareitnews.com/news/emea/nhs-contact-tracing-app-downloaded-10-million-times-despite-glitch](http://www.healthcareitnews.com/news/emea/nhs-contact-tracing-app-downloaded-10-million-times-despite-glitch)

<sup>57</sup> ZD Net, FBI, 'CISA: Russian hackers breached US government networks, exfiltrated data', 22 October 2020, [www.zdnet.com/article/fbi-cisa-russian-hackers-breached-us-government-networks-exfiltrated-data/](http://www.zdnet.com/article/fbi-cisa-russian-hackers-breached-us-government-networks-exfiltrated-data/)

<sup>58</sup> Bloomberg, 'Iran accused of hacking US voter data before election day', 31 October 2020, [www.bloomberqint.com/business/iran-accused-of-hacking-u-s-voter-data-before-election-day](http://www.bloomberqint.com/business/iran-accused-of-hacking-u-s-voter-data-before-election-day)

<sup>59</sup> CNN, 'Election officials in at least two states contact law enforcement after threatening emails sent to voters', 21 October 2020, <https://edition.cnn.com/2020/10/20/politics/threatening-emails-sent-to-voters-florida-alaska/index.html>

<sup>60</sup> Vice News, 'Proud Boys' emails threatening Florida voters, appear to use spoofed email addresses, 20 October 2020, [www.vice.com/en/article/88a43b/proud-boys-emails-threatening-florida-voters-appear-to-use-spoofed-email-address](http://www.vice.com/en/article/88a43b/proud-boys-emails-threatening-florida-voters-appear-to-use-spoofed-email-address)

Additionally, a separate report revealed that Energetic Bear, a Russian state-sponsored hacking group, targeted and successfully breached US government networks, two weeks ahead of election day, in an operation that targeted US state, local, territorial and tribal (SLTT) government networks since at least February 2020. The technical advisory did not state that the hacked data had been explicitly used to interfere with the elections. However, the infiltrated data included sensitive user and administration credentials (including passwords), documents related to printing access badges, as well as election data contained on the government networks. The data collected and the timing of the attacks during the election period has set off privacy and meddling concerns, with the FBI and CISA determining that the intention was to seek 'access to obtain future disruption options, to influence US policies and actions, or to delegitimize SLTT government entities.' This may be Russia's precursor in laying the groundwork to disrupt the 2020 election with its access to election-related local government IT systems.

Cyber-influenced operations of this nature have been discussed by the UN Human Rights Council (UNHRC). In a report on the right to privacy in the digital age,<sup>61</sup> the UNHRC determined that hacking operations are a violation of Article 17 of the ICCPR, which protects the right to privacy. This type of hacking poses serious privacy concerns by enabling indiscriminate interception and collection of all kinds of communications and data and also permits remote and secret access to personal devices and data stored on them, enabling real-time surveillance and the manipulation of data. Hacking also raises significant extraterritoriality concerns as it can affect individuals across many jurisdictions and enables hackers with the ability to psychologically influence targets using personal data. Furthermore, hacking relies on exploiting vulnerabilities in information and communications technology (ICT) systems and thus contributes to security threats for millions of users, and the undermining of democratic values and processes, such as elections.

The IBAHRI condemns the use of mass hacking operations by Russia and Iran in violation of the right to privacy, as well as its role in sowing further discord in an already divisive and contentious election that may have serious ramifications on the human rights system. The IBAHRI reminds perpetrators that states have a responsibility to respect and a duty to protect the right to privacy, which includes the prohibition of directing and sponsoring mass cyber-security attacks and the unauthorised syphoning of personal data. This also extends to metadata that includes indicatory information beyond the content of a communication, such as as the Iranian hacker's ability to determine party affiliations.

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<sup>61</sup> UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights, *The right to privacy in the digital age*, A/HRC/39/29, 03 August 2018.

### 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.

#### **Cameroon**

On 15 September 2020, Cameroon Territorial Administration Minister, Paul Atanga Nji, in a letter to political parties, warned that unauthorised demonstrations be broken up by law enforcement and that anyone organising or leading demonstrations should be arrested, on the pretext that protests during the Covid-19 pandemic would be endangering lives.<sup>62</sup>

On 22 September, security forces fired tear gas and water cannons at hundreds of peaceful protestors in Douala, following nationwide protests called on by Cameroons' opposition party Mouvement pour la renaissance du Cameroun (MRC) to end President Paul Biya's near 40-year rule. According to MRC lawyers, over 500 people were arrested, eight of whom were journalists and only 155 have been released so far<sup>63</sup>. The arrested protestors are being held on various charges, including rebellion and participating in an illegal demonstration and terrorism and insurrection while some are being held without charge<sup>64</sup>. Many of these protesters, including journalists and lawyers were beaten and mistreated while being arrested and kept in detention.

Among the eight journalists arrested, included Radio France Internationale (RFI)'s correspondent in Yaoundé, Polycarpe Essomba, who it appears to have been specifically targeted were taken to the central police station in Yaoundé and were subsequently released. MRC leader Maurice Kamto was arrested and has been held under de facto house arrest since 22 September. The first hearing on the complaint filed by his lawyers against the state of Cameroon accusing the authorities of illegal house arrest before the Yaoundé Court of First Instance was postponed until 29 October<sup>65</sup>. MRC treasurer Alain Fogue, and its spokesperson, Bibou Nissack were also arrested on 12 and 22

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<sup>62</sup> Human Rights Watch, 'Cameroon: Heightened Crackdown on Opposition', 21 September 2020, [www.hrw.org/news/2020/09/21/cameroon-heightened-crackdown-opposition](http://www.hrw.org/news/2020/09/21/cameroon-heightened-crackdown-opposition)

<sup>63</sup> Human Rights Watch, 'Cameroon: Opposition Leaders, Supporters Detained', 19 October 2020, [www.hrw.org/news/2020/10/19/cameroon-opposition-leaders-supporters-detained](http://www.hrw.org/news/2020/10/19/cameroon-opposition-leaders-supporters-detained)

<sup>64</sup> Human Rights Watch, n.57

<sup>65</sup> Human Rights Watch, n.58

September respectively and are being held without charge with Nissack being held in solitary confinement<sup>66</sup>.

Despite using the Covid-19 pandemic as an excuse to ban the demonstrations, Cameroonian authorities have detained hundreds of people in cramped conditions posing serious risks to public health which could be considered a right-to-health violation. Human Rights Watch has called this a thinly veiled attempt by the Cameroonian government to use the Covid-19 pandemic and the draconian anti-terror law as a pretext to quell the right to assemble<sup>67</sup>.

## **India**

On 4 November 2020, a team of Maharashtra police arrested Mumbai-based TV news anchor Arnab Goswami for his alleged role in the death of an architect Anvay Naik, who designed his studio<sup>68</sup>. The arrest is demonstrative of growing targeted attacks against journalists and dissident voices in the country.

Goswami has been openly critical of the Maharashtra government and the Mumbai police especially for their handling of the suicide case of Bollywood star Sushant Singh Rajput. Republic TV claimed he has been targeted over his journalism<sup>69</sup>. Maharashtra is under the control of the main opposition party – Shiv Sena of the ruling party – Bharatiya Janata Party (BJP), whom Goswami has aggressively supported<sup>70</sup>. Last month, police officials accused Goswami and his news channel Republic TV and two other channels of rigging the ratings system by bribing poor people to tune in to the station. The allegations were strongly denied on the grounds that they were being targeted because of the critical coverage critical of the Mumbai police. This case has clearly been touted as an example of assault on press freedoms in India<sup>71</sup>. Mr. Goswami should be released immediately and authorities across India should stop harassing journalists. Early this year, Reporters without Borders reported that India had dropped two places to the 142nd place on a global press freedom index, out of 180 countries<sup>72</sup>.

## **Iraq**

On 22 October 2020, Guhdar Zebari, a Kurdish Iraqi journalist and the editor of news website Wllat news, based in Akre, was arrested in a house raid and was taken to an unknown location. Ayhan Saeed, the Metro Centre's representative in Duhok, told Committees to Protect Journalist (CPJ) that at least 13 vehicles arrived at Mr. Zebari house for his arrest, grounds for which remain

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<sup>66</sup> Human Rights Watch, n.58

<sup>67</sup> Human Rights Watch, n.57

<sup>68</sup>BBC, "Arnab Goswami: Republic TV founder arrested in suicide case", 4 November 2020, [www.bbc.co.uk/news/world-asia-india-54806099](http://www.bbc.co.uk/news/world-asia-india-54806099)

<sup>69</sup> BBC, n. 63

<sup>70</sup> New York Times, 'TV Journalist Is Arrested as Assaults on Press Freedom Rise in India', 4 November 2020 [www.nytimes.com/2020/11/04/world/asia/arnab-goswami-arrest-india.html](http://www.nytimes.com/2020/11/04/world/asia/arnab-goswami-arrest-india.html)

<sup>71</sup> BBC, n. 63

<sup>72</sup> Reporters Without Borders, "2020 World Press Freedom Index: "Entering a decisive decade for journalism, exacerbated by coronavirus", <https://rsf.org/en/2020-world-press-freedom-index-entering-decisive-decade-journalism-exacerbated-coronavirus>



unclear. The unidentified forces searched all his belongings, including his laptop and mobile and seized all 'electronic devices in the house, including those of Mr. Zebari's wife and daughter and two visiting relatives.'

Wrya Hussein, the editor-in-chief of Wllat news also told CPJ that Mr. Zebari had been receiving threatening messages, which resorted to him having to live in hiding for fear of his personal safety. Mr. Zebari previously worked for NRT, the news agency that has been frequently subjected to harassment by Kurdish authorities. He recently was working on the launch of Kurmanci service of Wllat news.

This is not the first time that Guhdar Zebari facing harassment and arrest; 'Mr. Zebari has been assaulted and detained several times and has had his equipment seized and broken'.<sup>73</sup> Iraqi journalists and media workers risk their lives to report on incidents and corruptions by governing bodies'. The threat against journalist and freedom of media has grown since widespread protests since October 2019. Journalists who dare to speak out and criticise public offices face threats, harassment, arrest and detention.

A week before Mr. Zebari's arrest and in another attempt of Iraqi authorities to obstruct media freedom, a judge at Tahqiq al-Karada, the Supreme Judicial Council, issued an arrest warrant for Suadad Al-Salhy, a Middle East Eye journalist on defamation charges. According to Article 433(1) Iraqi Penal code, defamation is punishable by a year in jail and fines. The warrant was issued only hours after Middle East Eyed published Ms. Al-Salhy's well-documented article, 'Iranian Supreme Leader Ali Khamenei ordered Iraq's pro-Iranian militias to stop attacking US interests last week.' Ms. Al-Salhy is an experienced journalist who has worked for the *New York Times*, *Reuters*, *Al Jazeera*, *Arab News* and *Newsweek* amongst other outlets. Throughout her work, she has faced numerous threats, harassment and even she escaped two murder attempts. In 2007, she was attacked by unidentified gunmen and 'explosive devices were found outside her parent's home in 2014.'<sup>74</sup>

According to the Press Freedom Advocacy Association in Iraq, 92 journalists have been murdered in the past decade, with rampant impunity. Although the Iraqi government has stated that it has attempted to achieve accountability, none of the government targets are in line with the rule of law and this impacts the justice and accountability achieved.<sup>75</sup>

The IBAHRI is extremely concerned for the safety of journalists including Mr. Zebari and Ms. Al-Salhy and urges the Regional Government of Kurdistan and the Iraqi government to guarantee the safety of journalists as well as call on Iraqi authorities to drop all charges against the journalists. The authorities must end the misuse of law to unlawfully arrest and penalise journalists and media workers simply for doing their work and exercising their right to freedom of expression. The IBAHRI further calls on the central government to implement a practical, consistent, transparent, thorough and effective solution to end impunity against media workers in the state.

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<sup>73</sup> CPJ, 'Kurdish Iraqi security forces arrest journalist Guhdar Zebari at his home in Akre', 27 October 2020, <https://cpj.org/2020/10/kurdish-iraqi-security-forces-arrest-journalist-guhdar-zebari-at-his-home-in-akre/>

<sup>74</sup> RSF, 'Iraqi reporter threatened with arrest over story about Iran's supreme leader', 23 October 2020 <https://rsf.org/en/news/iraqi-reporter-threatened-arrest-over-story-about-irans-supreme-leader>

<sup>75</sup> Press Freedom Advocacy Association in Iraq <http://pfaa-iq.com/?p=4583>

## **Israel**

On 27 October 2020, Abdelrahman Al-Thaher, a Palestinian journalist and filmmaker was arrested by Israeli forces at his home in West Bank and taken to south Nablus suburb of Huwara.

According to his wife, Rasha Al-Sayeh, ten Israeli forces raided their house at 2 am, 'asking for the famous journalist' then seized his ID and forced him to reveal the password to his phone. Shortly thereafter, authorities handcuffed and blindfolded Mr. Al-Thaher and searched the house. Now Mr. Thaher is under investigation. However, the reason for his arrest has not yet been disclosed.

A week before his arrest, Mr. Thaher posted a video under 'What is the story of the Gaza settlements in 1955?' on [Facebook](#) where he interviewed pedestrians about the history of the occupation. Mr. Al-Thaher's arrest comes just weeks after his release on bail on 21 September after 35 days of the Palestinian Authority's (PA) preventive security custody. The PA had arrested him on 19 August on defamation charges for activities undertaken at the An-Najah National University's media centre in Nablus, where he produced and presented several TV programmes. It is understood that Mr. Al-Thaher was arrested due to the Facebook post in which he criticised 'the normalisation of ties with Israel resulting from the UAE-Israel peace deal'.<sup>76</sup>

Mr. Al-Thaher runs satirical shows for the Amman-based broadcaster Roya TV, local Wattan TV and the UK based Al-Araby TV and he also works as a producer for the An-Najah University's Media Centre. In his work, he has often used satire to address political, social, and economic challenges facing Palestinians.

Israel is ranked in 88th position on the RSF 2020 World Press Freedom Index. The media and journalists are subject to 'military censorship', smear campaigns by politicians and their supporters, harassment and hostility.<sup>77</sup> Currently, 20 other Palestinian journalists are in Israeli detention.<sup>78</sup>

The IBAHRI condemns Mr. Al-Thaher's arrest by Israeli forces and calls for his, and the other 20 detained Palestinian journalists', immediate release. The IBAHRI affirms the right to freedom of speech and for journalists to be able to express criticism without fear or favour.

## **Nigeria**

Article 19, a global free speech organisation, has documented over 51 incidents in 2020 of journalists being subject to assaults, arrests and prosecution.<sup>79</sup> Regional Director of Article 19 West Africa, Jagne Senghore commented, 'this year, Nigeria needs to use International Day to End Impunity for Crimes against Journalists as an opportunity to improve this appalling record. The government must commit to end these attacks and amend its laws to enable a climate of free media and free speech. The government must provide justice and remedies to victims. They must make protection and security of journalists a national priority'. On 2 November 2020, The

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<sup>76</sup> Middle Eastern Eye, 'Israel arrests Palestinian journalist in West Bank', 27 October 2020 [www.middleeasteye.net/news/palestine-israel-journalist-thaher-arrested](http://www.middleeasteye.net/news/palestine-israel-journalist-thaher-arrested)

<sup>77</sup> RSF Israel, <https://rsf.org/en/israel>

<sup>78</sup> Middle Eastern Eye, n.71

<sup>79</sup> Article 19, 'Nigeria: Free Media under Threat Arrests, killings, prosecutions, assaults: the daily life of journalists in Nigeria in 2020', 2 November 2020, [www.article19.org/wp-content/uploads/2020/11/Nigeria\\_free\\_media\\_threatened.pdf](http://www.article19.org/wp-content/uploads/2020/11/Nigeria_free_media_threatened.pdf)

Attorney General of the Federation (AGF) and Minister of Justice, Abubakar Malami (SAN) stated that the Federal Government is 'committed to ending impunity for crimes against members of the public, including journalists.' While no specifics were disclosed as to the extent of this commitment, the IBAHRI echoes Article 19's calls for Nigeria to set up an independent panel to investigate the assaults, arrests, prosecution and killing of journalists.

It is equally concerning that the National Broadcasting Commission (NBC), Nigeria's media regulator released guidelines for media outlets to refrain from poorly depicting individuals, organisations or the government, so as to not cause a panic or incite a rift in the society.<sup>80</sup> The President of Nigeria also televised a public condemnation on activists and international allies for spreading 'deliberate falsehood and misinformation through the social media'. Currently, the Nigerian Northern Governors' Forum have called for a clampdown on social media as a way of controlling the spread of 'fake news' in relation to the ongoing #Endears protests, which call for the disbanding of the Nigerian Special Anti-Robbery Squad.<sup>81</sup> The NBC has also fined several media organisations for 'unprofessional coverage of the #Endsars protests'.<sup>82</sup> In response, the Socio-Economic Rights and Accountability Project (SERAP) has filed a lawsuit against the NBC and Minister of Information and Culture, seeking a declaration from the court that the fines were arbitrary, illegal and unconstitutional.<sup>83</sup> On 26 October, the International Bar Association and the IBAHRI released a statement condemning the crackdown in Nigeria and calling on the state to uphold its international obligations including its citizens' rights to security, dignity, freedom of expression and peaceful assembly, as provided under Article 21 of the ICCPR as well as calling for an immediate, independent and transparent investigation into the killings, and for the perpetrators to be held to account.

## **Pakistan**

On 20 October 2020, Radio Pakistan announced the immediate dismissal of 749 contractual employees through a memorandum issued by the Pakistan Broadcasting Corporation (PBC). The reason cited for the dismissal was 'budget deficit and no need of contractual human resource'<sup>84</sup>. The dismissed media workers staged a mass sit-in before Pakistan's Supreme Court demanding restoration of their services<sup>85</sup>. That same night, 21 employees were arrested on charges of

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<sup>80</sup> Columbia Journalism Review, 'Nigeria's #EndSARS Movement and Media Suppression', 2 November 2020, <https://www.cjr.org/analysis/nigeria-endsars-press-freedom.php>.

<sup>81</sup> Daily Post, 'Northern governors, traditional rulers want social media regulated', 2 November 2020, <https://dailypost.ng/2020/11/02/northern-governors-traditional-rulers-want-social-media-regulated/>

<sup>82</sup> Nairometrics, '#EndSARS: SERAP sues NBC over charges on unprofessional media coverage', 2 November 2020, <https://nairometrics.com/2020/11/02/endsars-serap-sues-nbc-over-charges-on-unprofessional-media-coverage/>

<sup>83</sup> Nairometrics, n.77

<sup>84</sup> IFJ, 'Pakistan: State-owned Radio Pakistan sacks 749 media workers', 22 October, 2020, [www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-state-owned-radio-pakistan-sacks-749-media-workers.html](http://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-state-owned-radio-pakistan-sacks-749-media-workers.html)

<sup>85</sup> IFJ, n.79

protesting in the red zone of the federal capital<sup>86</sup> but were later granted bail<sup>87</sup>. In recent years, media industry downsizing and economic challenges have created severe labour rights issues for many Pakistani journalists including illegal retrenchment, delayed wage payments, forced leave without pay and other sorts of economic harassment<sup>88</sup>. The mass layoff has been condemned by the International Federation of Journalists (IFJ) and its affiliate the Pakistan Federal Union of Journalists (PFUJ) urging Pakistan's government to intervene to reverse the decision.

Further, on 19 October 2020, the Pakistan Electronic Media Regulatory Authority (PEMRA) suspended the satellite transmission of the television channel News24HD for broadcasting a Pakistan Democratic Movement rally in Karachi on YouTube and other coverage of the country's political opposition<sup>89</sup>. The IBAHRI joins the IFJ to condemn the suspension – the harassment directed at News24HD is a clear indication of intimidation by the authorities calling for the immediate recommencement of satellite and cable broadcasts<sup>90</sup>.

## **Sudan**

Several protests have been organised across Sudan, which are aimed at highlighting the deteriorating living conditions in the country and the deadly crackdown on protests by the Sudanese government. The protests came a week after the death of 15 people in tribal clashes in eastern Sudan<sup>91</sup>. There has been a continuous restriction on media freedom and union rights including the forcible shut down of the Sudanese Journalists' Union<sup>92</sup> by the government, which deteriorated during the Covid-19 pandemic<sup>93</sup>. The IFJ reiterated the importance of having union representation for journalists to support them and protect their rights, especially in the time of the current pandemic.

On 21 October 2020, Sudanese security forces prevented Al-Arabiya correspondent Saad Eddin Hassan from reporting on a demonstration taking place in the centre of Khartoum. Further attacks took place in the south of the city where Sky News Arabia photographers were attacked

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<sup>86</sup> The Frontier Post, 'Police arrested 21 sacked employees of Radio Pakistan', 22 October 2020, <https://thefrontierpost.com/police-arrested-21-sacked-employees-of-radio-pakistan/>

<sup>87</sup> 24NewsHD, 'Arrested sacked Radio Pakistan employees get bail', 22 October 2020, [www.24newshtv.com/22-October-2020/arrested-sacked-radio-pakistan-employees-get-bail](http://www.24newshtv.com/22-October-2020/arrested-sacked-radio-pakistan-employees-get-bail)

<sup>88</sup> IFJ, n.79

<sup>89</sup> IFJ, 'Pakistan: PEMRA suspends 24NewsHD's satellite broadcast', 26 October 2020, [www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-pemra-suspends-24newshtv-satellite-broadcast.html](http://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-pemra-suspends-24newshtv-satellite-broadcast.html)

<sup>90</sup> IFJ, n.79

<sup>91</sup> AP News, 'Sudanese return to streets over dire living conditions', 21 October 2020, <https://apnews.com/article/sudan-omar-al-bashir-khartoum-27acbe65c0ac3f8173ebdc0f5486408e>

<sup>92</sup> IFJ, 'Sudan: IFJ demands authorities reverse decision to ban journalists' union', 15 December 2019, [www.ifj.org/media-centre/news/detail/category/press-releases/article/sudan-ifj-demands-authorities-reverse-decision-to-ban-journalists-union.html](http://www.ifj.org/media-centre/news/detail/category/press-releases/article/sudan-ifj-demands-authorities-reverse-decision-to-ban-journalists-union.html)

<sup>93</sup> IFJ, 'Sudan: Media crackdown escalates amid Covid-19 pandemic', 10 June 2020, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/sudan-media-crackdown-escalates-amid-covid-19-pandemic.html>

for covering a peaceful protest<sup>94</sup>. According to Community to Protect Journalists' (CPJ) annual Global Impunity Index, South Sudan continues to occupy the top four spot on the list of countries where journalists are singled out for murder and their killers go free<sup>95</sup>.

## **Syria**

On 26 October 2020, Rasheed Al-Bakr, a Syrian media activist and photojournalist, was killed in an airstrike on rebel training camp Jebel al-Dweila near the northern Idlib city of Kafr Takharim.

Mr. Al-Bakr was a member of Kafr Takharim coordination committee and worked in the Al-Muharr media network and the Syria 1 News Agency, covering field and military events in his area. He was covering the training of Turkish-backed National Front for Liberation when he lost his life alongside a number of fighters. It is widely suspected the airstrike was carried out by Russia, which is a close ally of the Syrian government.<sup>96</sup> Mr. Al-Bakr joined Al-Muharr, which has been the pro-opposition media network since its founding in November 2018.

The death of Mr. Al-Bakr provides a reminder as to the difficult operating situation for Syrian journalists who risk their lives to undertake their duties in the face of conflict in the country. Since the outset of the Syrian civil war in 2011, 153 journalists and media workers lost their lives for their work.<sup>97</sup> The IBAHRI urges both parties of conflict to guarantee the safety of journalists and media workers so they could continue their work, while it condemns the death of Mr. Al-Bakr.

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<sup>94</sup> IFJ, 'Sudan: Security forces attack journalists and obstruct reporting on protests', 26 October 2020, [www.ifj.org/media-centre/news/detail/category/press-releases/article/sudan-security-forces-attack-journalists-and-obstruct-reporting-on-protests.html](http://www.ifj.org/media-centre/news/detail/category/press-releases/article/sudan-security-forces-attack-journalists-and-obstruct-reporting-on-protests.html)

<sup>95</sup> CPJ, 'Getting Away with Murder', 28 October 2020, <https://cpj.org/reports/2020/10/global-impunity-index-journalist-murders/>

<sup>96</sup> The Guardian, 'Russia blamed for airstrike on training camp in north-west Syria', 26 October 2020, [www.theguardian.com/world/2020/oct/26/russia-blamed-for-airstrike-on-training-camp-in-north-west-syria](http://www.theguardian.com/world/2020/oct/26/russia-blamed-for-airstrike-on-training-camp-in-north-west-syria)

<sup>97</sup> CPJ, '153 Journalists Killed in Syria between 2011 and 2020', [https://cpj.org/data/killed/mideast/syria/?status=Killed&cc\\_fips%5B%5D=SY&start\\_year=2011&end\\_year=2020&group\\_by=location](https://cpj.org/data/killed/mideast/syria/?status=Killed&cc_fips%5B%5D=SY&start_year=2011&end_year=2020&group_by=location). See also CPJ, 'Syrian journalist Rasheed Bakr killed in an airstrike in northern Idlib', 28 October 2020 <https://cpj.org/2020/10/syrian-journalist-rasheed-bakr-killed-in-an-airstrike-in-northern-idlib/#:~:text=Bakr%2C%20who%20worked%20for%20the,Jabal%20al-Duwaylah%2C%20near%20the>

#### 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**

On 27 October 2020, in the case of *Kılıçdaroğlu v. Turkey*, the European Court of Human Rights<sup>98</sup> (ECtHR) unanimously held that there had been a violation of Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR).

The case concerned a civil judgment ordering Kemal Kılıçdaroğlu, leader of the main opposition party, to pay compensation for tarnishing the reputation of the then-Prime Minister, Recep Tayyip Erdoğan, on account of remarks made by him in two speeches delivered in 2012 on the parliamentary estate. The two speeches, which were delivered on 31 January and 7 February 2012 by Mr. Kılıçdaroğlu, in his capacity as Chairman of the CHP, concerned matters of general interest which were related, in particular, to allegations of abuse of trust that had been founded on specific facts.

On 1 March 2012, the then-Prime Minister brought two civil actions for damages against Mr. Kılıçdaroğlu, claiming that his personal and professional honour and reputation had been tarnished. On 23 October 2012 the Ankara District Court handed down two judgments ordering Mr. Kılıçdaroğlu to pay 5,000 Turkish liras in each set of proceedings for the non-pecuniary damage caused to the Prime Minister's reputation and a subsequent appeal to the Constitutional Court resulted in a ruling that his right to freedom of expression had not been violated.

The Court found that 'some of the expressions used by Mr Kılıçdaroğlu in the context of his opposition to the Prime Minister consisted of harsh attacks with an antagonistic tone', which 'could be recognised as the type of political invective used by politicians in the course of their debates'. The Court took the view that the role of the domestic courts in such proceedings was not to tell the applicant what style he should have adopted in exercising his right to criticise, however caustic his remarks, but rather to examine whether in the context of the case, the public interest and the intention of the person who made the remarks justified the possible use of a degree of provocation or exaggeration. The Court therefore found that a fair balance had to be struck between the Prime Minister's right to respect for his private life on the one hand, and Mr. Kılıçdaroğlu's right to freedom of expression, on the other. The Court found a violation of Article 10 on this occasion and ordering Turkey to pay damages to Mr. Kılıçdaroğlu.

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<sup>98</sup> European Court of Human Rights, *Kılıçdaroğlu v. Turkey* (application no. 16558/18), <https://hudoc.echr.coe.int/eng-press#%20>

## 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.

### **Belarus**

As covered in previous issues of this Bulletin, the IBAHRI reported on the contracting of private, global companies and their role in directly, via specific technologies, enabling the internet disruptions and censorship in the country. On 1 October 2020, 22 members of the #KeepItOn coalition sent an open letter calling on Austrian-owned A1 Telekom Austria Group, the parent company of A1 Belarus. The open letter called on the company 'to publicly outline how and why they implemented internet shutdowns and throttling in August and September 2020, report on their impacts, and challenge their legality in courts'.

On 4 November, the #KeepItOn coalition sent a follow up open letter,<sup>99</sup> in which they made an additional call for transparency and public disclosure from A1 Belarus to support civil society's fight against internet shutdowns, and to help hold authorities accountable for their actions. The letter referenced A1 Belarus' reliance on state-owned, monopolised internet services, and the need to comply with local legal and regulatory requirements, claiming that noncompliance may have resulted in government-implemented large scale internet shutdowns. The group are calling for commitment from the company to resist shutdown orders in the future. The IBAHRI joins the undersigned organisations in their request for the telecommunications company to respect human and digital rights in Belarus, to support the accountability and reparations process, particularly specific rights of peaceful assembly, association, expression, due process and fair trial rights are all presently being severely restricted in the country.

### **Egypt**

On 4 November 2020, a group of 26 human rights organisations<sup>100</sup> from across the globe called on the Egyptian government to end censorship of the internet and the blocking of websites. The statement noted that at least 600 websites had been blocked by Egyptian authorities since May 2017, including media, political and human rights platforms. The statement noted how blocking websites is a violation of people's right to access information and freedom of expression online as protected in Article 19 of the ICCPR and noted in UNHRC General Comment 34 where the Human Rights Committee of the ICCPR affirmed that imposing a general ban on operating some websites and systems is inconsistent with Article 19(3) of the Convention.

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<sup>99</sup> AccessNow, 'Shutdowns in Belarus: Austrian telco must denounce actions and commit to accountability', 4 November 2020, [www.accessnow.org/cms/assets/uploads/2020/11/A1\\_Belarus\\_Response.pdf](http://www.accessnow.org/cms/assets/uploads/2020/11/A1_Belarus_Response.pdf)

<sup>100</sup>IFEX, 'Human rights organizations call on Egypt's government to end internet censorship and website blocking', 4 November 2020, <https://ifex.org/human-rights-organizations-call-on-egypts-government-to-end-internet-censorship-and-website-blocking/>

Further, the statement called on the authorities to end the use of the technique of the Deep Packet Inspection (DPI) technology, which allows the prevention of communication or the exercise of censorship. This constitutes a serious violation of Article 71 of the Egyptian Constitution, which states that 'it is prohibited to censor, confiscate, suspend or shut down Egyptian newspapers and media outlets in any way'.

The IBAHRI joins the organisations in their call to Egypt to immediately lift all existing blockages and refrain from future, arbitrary applications of internet restrictions and website blocking, which is a direct violation to states' obligations and is protected in international human rights law.