



IBAHRI Freedom of Expression Bulletin

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Message from the IBA President, Horacio Bernardes Neto

‘As the world goes through the unprecedented global crisis sparked by the Covid-19 pandemic, it is becoming harder to prompt international cooperation. In strange and uncertain times like these, we tend to look inward and focus on our own predicament, as issues in distant places may now appear remote and somewhat secondary to our own. In this period of hardship, the **International Bar Association** (IBA) strives to uphold its global approach to building stability and peace through the administration of justice. Judges, lawyers and all legal professionals are the ultimate safeguard against abuses from states and this is especially true now. As they struggle to respond adequately to contain and treat the virus, states must resort to extraordinary measures, often at the cost of certain individual liberties. The IBA stays committed to promoting the rule of law and shall investigate and report unjustified and disproportionate liberticidal measures issued for the sake of containing this scourge.’

Message from IBAHRI Director, Baroness Helena Kennedy QC

‘It is my pleasure to present the first edition of the Freedom of Expression Bulletin, a fortnightly review by the IBA’s **Human Rights Institute**. When there is a global crisis, access to reliable and fact-checked information is vital. It is crucial that we remain vigilant to the restrictions of freedom of expression that are unfolding in many corners of the world. It is our belief that this initiative will contribute a great deal to monitoring violations of rights by states taking advantage of the gravity of the situation. The Institute acts as Secretariat to the **High Level Panel of Legal Experts on Media Freedom**, which continues to provide advice and recommendations to governments around the world.’

1. National security and emergency measures

Since the outset of the Covid-19 pandemic, several states, such as Thailand and Hungary, 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, its 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. Israel and Taiwan are notable examples of 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 outbreak¹. Across the globe, we are seeing journalists being threatened and punished for speaking out about the extent of the situation in their countries.

4. Free speech

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

5. Digital rights and internet shutdowns

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

¹ UNESCO stresses importance of safety of journalists amid COVID-19 pandemic, 27 March 2020
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.

Thailand

On Thursday 26 March 2020, new emergency measures intended to last one month were implemented in Thailand by executive decree to limit the spread of the coronavirus disease. People have been informed they should to stay in home quarantine, whatever their current location. Prime Minister Prayut Chan-o-cha has warned that if these measures are not sufficient to contain the spread, a 'total lockdown' would be declared². The state of emergency was not put through legislative review, as it is the fruit of a 2005 Emergency Decree on Public Administration in Emergency Situation (the Emergency Decree). A direct consequence of this decision is to centralise all aspects of the government's efforts against the disease between the hands of the PM, who will now chair a central 'war room' to fight the pandemic³.

There are concerns relating to the nature of the rules issued under the executive decree. These include a prohibition against sharing 'any kind of news or information related to Covid-19 that is false and might instigate fear amongst the public or that is intentionally distorted to mislead the public'. The decree is to be read in conjunction with other norms, such as the Computer Crimes Act, which itself provides for up to five years of prison time for any who upload 'false information'. Further, violations of orders made under the Emergency Decree are punishable by up to two years' imprisonment. Moreover, 'any kind of assembly and activity in a congested place or any kind of seditious act' are also prohibited, as well as hoarding goods. Public venues have been closed and restrictions have been imposed on international visitors⁴.

- Section 9 of the Emergency Decree grants extensive powers to the Prime Minister, who will be able to order confinement, prohibit assemblies, ban press releases and any type of publication that may instigate fear, restrict travel or access to certain areas.
- Section 11 of the Emergency Decree provides for additional powers in 'serious situations' involving 'terrorism, use of force, harm to life, body or property', such as powers of arrest, detention, search, seizure or requisitioning of goods and services, etc.

The current measures were decided under Section 9 only, but it is not known whether further measures will be taken under Section 11.

² Bangkok Post, 'Emergency decree coming Thursday', 24 March 2020
www.bangkokpost.com/thailand/general/1885475/emergency-decree-coming-thursday

³ The Thaiger, 'Thai PM: State of emergency begins at midnight', 25 March 2020
thethaiger.com/coronavirus/thai-pm-state-of-emergency-begins-at-midnight

⁴ ARTICLE 19, 'Thailand: Emergency measures threaten human rights', 25 March 2020
www.article19.org/resources/thailand-emergency-measures-threaten-human-rights/

Brazil

On 23 March 2020, Brazilian President Jair Bolsonaro issued Provisional Measure 929⁵, which suspends deadlines for responding to freedom of information requests under Brazil's Right to Information Law and forbids journalists or other submitters from appealing denied requests⁶. Among others, the head of the Supreme Court has implored Brazilians to ignore their President⁷, who from the outset has insisted that the virus is nothing more than a 'little flu'⁸.

Brazil's supreme court has currently suspended Bolsonaro's order until its judges vote on it at an unannounced future date, but its possible implementation still hangs over the heads of the country's journalists⁹. The President has been criticised for his response to the virus, with the opposition calling for his resignation¹⁰ and condemning the lack of support provided to the Brazilian people and healthcare workers at this time.

Hungary

On 30 March 2020, Hungarian Prime Minister Viktor Orbán was granted the right to rule by decree for an indefinite period of time. The Hungarian executive can now bypass Parliament entirely. The bill allows the Hungarian authorities to imprison anyone who interferes with the government's response, including spreading 'false information' for up to five years. The emergency legislation further allows authorities to prevent public demonstrations and mitigate criticism by political opponents and the media¹¹.

Many in Europe have accused Orbán of using the state of emergency to increase his own power, to the detriment of the basic principles of democracy. The opposition within Hungary itself called the move an 'attempted coup d'état', and urged the Prime Minister to establish a time limit on the state of emergency¹². The **IBAHRI firmly opposed this decision** in a press release last week and denounced it as a contravention of Hungary's commitment to international human rights standards. Indeed, Article 51 of the Siracusa Principles states that any emergency measure that derogates to the normal, constitutional conduct of state affairs must strictly conform to requirements of necessity and proportionality to the nature and extent of the threat. The state of Hungary is also bound by

⁵ 'MEDIDA PROVISÓRIA Nº 928, DE 23 DE MARÇO DE 2020' 23 March 2020

www.planalto.gov.br/ccivil_03/_ato2019-2022/2020/Mpv/mpv928.htm

⁶ Organized Crime and Corruption Reporting Project (OCCRP), 'Suppression of Press Freedom Accompanies COVID-19 Worldwide', 30 March 2020

www.occrp.org/en/daily/11954-suppression-of-press-freedom-accompanies-covid-19-worldwide

⁷ The New York Times, 'Bolsonaro, Isolated and Defiant, Dismisses Coronavirus Threat to Brazil,' 1 April 2020

www.nytimes.com/2020/04/01/world/americas/brazil-bolsonaro-coronavirus.html

⁸ TIME, "After Bolsonaro Labels Coronavirus a 'Little Flu,' Brazil's State Governors Defy President's Call to Reopen Businesses, Schools," 26 March 2020

time.com/5810902/jair-bolsonaro-brazil-governors-coronavirus/

⁹ OCCRP, n6

¹⁰ The Guardian, 'Brazilian left demands Bolsonaro resign over coronavirus response,' 30 March 2020

www.theguardian.com/world/2020/mar/30/tp-captain-corona

¹¹ CNBC, 'Hungary's nationalist leader Viktor Orban is ruling by decree indefinitely amid coronavirus', 31 March 2020

www.cnbc.com/2020/03/31/coronavirus-in-hungary-viktor-orban-rules-by-decree-indefinitely.html

¹² RFI, 'EU warns of Hungary power grab as Orban seeks State of emergency extension', 27 March 2020

www.rfi.fr/en/europe/20200327-eu-warns-of-hungary-power-grab-as-government-seeks-coronavirus-State-of-emergency-extension-pm-viktor-orban-covid19

obligations under the International Covenant on Economic, Social and Cultural Rights, which states in its Article 12, that state parties 'recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,' which involves the duty to take steps to prevent threats to public health and to provide medical care to those who need it without exclusion.

Although a state of emergency can indeed justify extraordinary measures that may infringe on human rights norms, as justified by the peremptory nature of the requirements of public health, these eventual restrictions must meet certain standards of international law, namely legality, necessity and proportionality. It could be argued that these governments, having used emergency powers to impose broad restrictions on freedom of expression and the public's right to know without openly referring to these standards, may have violated its commitment to human rights. It should also be noted that governments are repeatedly using the notion of 'false' or 'fake' news to silence dissent and opposition, arguing that sources that do not reiterate official news constitute an obstacle to their work against coronavirus. By establishing itself as the authority on what is 'fake' and what is 'real', a government is able to manipulate discourses, as well as impose and enforce its own biased definitions thanks to the range of punishments provided by the law. This further raises concerns relating to the effect of Covid-19 on global democratic stability.

2. Privacy and surveillance

Israel and Taiwan 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.

Israel

As he struggles to reassert his authority over the country in the midst of a now protracted political deadlock¹³, Israeli Prime Minister Benjamin Netanyahu has taken a controversial initiative to limit the spread of Covid-19. In a televised statement on 17 March, the Prime Minister told the Israeli people that authorities had started operating a digital technology that locates people who were exposed to carriers of the coronavirus, and allows them to ask these people by text message to self-quarantine for fourteen days¹⁴. The digital tools used by Shin Bet, Israel's security agency to achieve this are allegedly the same that are used to observe terrorists, and their use, which is not conditioned to any transparency requirement, was approved by the Cabinet¹⁵.

The measures initially allowed the Israeli police to enforce the quarantines using the data provided by the surveillance software created by Shin Bet¹⁶. Although such monitoring would usually require parliamentary assent and judicial oversight, the PM invoked emergency orders to circumvent the normal process. It was alleged by Justice Minister Amir Ohana that 'the concerns of those disturbed by cyber-monitoring are outweighed by the threat we are facing'¹⁷.

The Association for Civil Rights in Israel criticised the move and filed a petition to Israel's Supreme Court on 18 March 2020, arguing that, on the contrary, 'the draconian and extreme nature of these measures violate the civil rights of the public and are more harmful than they are beneficial'.¹⁸ On 19 March 2020, the Supreme Court reportedly ordered the police to refrain from using the data to enforce quarantines, and announced it would scrap the programme if the Knesset, the legislative branch of the Israeli government, did not formally approve and oversee it¹⁹.

Members of the opposition have even accused the Prime Minister of exploiting Covid-19 to 'barricade himself in office', as meanwhile his trial for bribery and fraud was postponed by his justice minister²⁰.

¹³ Haaretz, 'Final Election Results: Netanyahu Bloc Short of Majority With 58 Seats', 6 March 2020 www.haaretz.com/israel-news/elections/.premium-israel-election-2020-netanyahu-gantz-1.8627591

¹⁴ The Independent, 'Coronavirus: Controversial Israeli spyware firm NSO builds software tracking mobile data to map Covid-19', 18 March 2020 www.independent.co.uk/news/world/middle-east/coronavirus-israel-cases-tracking-mobile-phone-nso-spyware-covid-19-a9410011.html

¹⁵ The Times of Israel, 'Netanyahu: Ministers to approve mass surveillance to halt COVID-19 spread', 16 March 2020 www.timesofisrael.com/netanyahu-ministers-to-approve-mass-surveillance-to-halt-covid-19-spread/

¹⁶ NPR, 'Israel Begins Tracking And Texting Those Possibly Exposed To The Coronavirus', 19 March 2020 www.npr.org/2020/03/19/818327945/israel-begins-tracking-and-texting-those-possibly-exposed-to-the-coronavirus?t=1584970521198&t=1585219786143

¹⁷ Aljazeera, "'Slippery slope:' Israel draws flak over coronavirus surveillance", 17 March 2020 www.aljazeera.com/news/2020/03/slope-israel-draws-flak-coronavirus-surveillance-200317153457942.html

¹⁸ The Independent n10

¹⁹ The Jerusalem Post, 'Association for Civil Rights in Israel lauds court's surveillance ruling', 19 March 2020 www.jpost.com/Breaking-News/Association-for-Civil-Rights-in-Israel-lauds-courts-surveillance-ruling-621637

²⁰ NPR, n12

Taiwan

Taiwan's Ministry of Health and Welfare decided on 28 January 2020 to electronically monitor individuals at home in quarantine starting 29 January 2020 to prevent an uncontrollable spread of the coronavirus. There were initially more than 2,000 Taiwanese returning from China's Hubei Province, or having had close contact with confirmed victims, who were put under a 14-day home quarantine. They were told their mobile phones would be used to track their whereabouts and alert authorities when they left their homes. By doing so they would expose themselves to an enforced quarantine by the authorities, a potential fine²¹, and even being arrested²².

The Taiwanese mobile phone surveillance system uses existing phone signals to triangulate the owner's locations, so there is therefore no need to download a specific app. An alert is sent to the authorities if the handset is turned off for more than 15 minutes, as well as if the individual remains stationary for a long period of time, which could indicate they left their house without the phone. It is reported that more than 6,000 people subjected to home quarantine are now being tracked this way²³.

These technological tools are usually used against suspected criminals, but in the current context, there is no review or guarantee that protects citizens, as authorities do not need a court-issued warrant to access this data²⁴. Although these measures, along with strict border controls, are proving efficient (Taiwan has succeeded rather well in containing the virus for now),²⁵ this type of surveillance may become a threat to human rights in the long term. It is crucial to pay close attention to future legal and technological developments relating to this form of close monitoring of the population, to ensure that it does not become a cover for human rights violations. Decisions of this nature could set dangerous precedents, which would endanger privacy rights. The case of Israel is especially alarming, as Shin Bet's surveillance may appear unnecessarily broad, and Israeli security and intelligence agencies are already internationally recognised for their mastery of this technology in the field of counter-terrorism. The invasive infringement of the right to privacy and the opacity with which this surveillance can be conducted are reminders of the danger that such a crisis represents for democracy and the need to maintain a transparent response system as required by the public's right to know. The fast-paced advancements of surveillance technology should not result in the establishment of a lawless framework for action. The International Principles on the Application of Human Rights to Communications Surveillance, which is the fruit of a global consultation of civil society actors, provide a useful set of guidelines with regards to the determination of surveillance measures that are consistent with human rights standards²⁶. The IBAHRI will be closely monitoring future developments in those states that chose the path of wide surveillance.

²¹ Taiwan News, 'Taiwan to electronically monitor potential coronavirus patients', 29 January 2020
www.taiwannews.com.tw/en/news/3866302

²² BBC News, 'Coronavirus: Under surveillance and confined at home in Taiwan' (24 March 2020)
www.bbc.co.uk/news/technology-52017993

²³ BBC News, n13

²⁴ BBC News, n13

²⁵ The Guardian, 'How Taiwan is containing coronavirus – despite diplomatic isolation by China', 13 March 2020
www.theguardian.com/world/2020/mar/13/how-taiwan-is-containing-coronavirus-despite-diplomatic-isolation-by-china

²⁶ Necessary and Proportionate – International Principles on the Application of Human Rights to Communications Surveillance necessaryandproportionate.org/principles

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.

Iran

Iran has been criticised since the beginning of the Covid-19 crisis for its consistent cover-up of numbers relating to the spread of the disease, as well as its censorship policies blocking independent reporting. No state of emergency or complete lockdown has been declared so far²⁷, but a body of new measures have been issued by the government, notably with regards to the information circulating about the crisis. This means that little information is available concerning the reality of the situation in Iran.

It is reported that Iran has summoned or arrested journalists who questioned official reports. Journalists have also been told to only publish official statistics, to avoid investigative journalism and not to question Iran's response or official figures.

Journalists arrested include Fardin Mostafaei, Editor in Chief of the news website *Saghezrud*, who called for the release of statistics for Saghez city²⁸. Other sources report that freelance economic reporter Mohammad Mosaed was temporarily detained over social media posts critical of the government's response, and that a group of journalists was summoned to court in Saqqez (Kurdistan), and also received threatening phone calls for exposing a severe outbreak in the city²⁹.

Non-journalists have also suffered restrictions on freedom of speech, as citizens trying to report on difficulties unfolding locally were met with repression from the authorities. Thus, for instance: Mohammad Mokhtari, a soccer player who commented on the death toll in Gilan province, and at least 15 more people in Tehran, Rasht and Qom who shared unofficial figures or questioned Tehran's statistics were arrested by the police.

On 11 March 2020, Foreign Ministry Spokesperson, Abbas Mousavi, reportedly announced that the government was creating a task force based in Iran's embassy in London to combat 'fake news' from foreign-based media outlets, according to *The Independent's* Farsi-language website³⁰. *The Independent* also reported that Ali Alghasi-Mehr, Tehran Prosecutor General, issued an order stating that 'in order to manage public opinion and the media, the judiciary will identify, document, and summon those who spread false news through various news websites, social media channels, such as Instagram, and other news sources in the shortest time possible'.³¹ On 30 March, Iranian authorities decided to suspend all newspaper printing and distribution in the country, under the guise of limiting the spread of Covid-19. The move attracted criticism from editors and journalists in the country, as print papers are still a major means of disseminating news in Iran and this threatens the livelihood of

²⁷ BBC News, 'Coronavirus: Iran is facing a major challenge controlling the outbreak', 24 March 2020
www.bbc.co.uk/news/world-middle-east-51642926

²⁸ VOA News, 'Iran Uses Arrests, Censorship to Silence Critical COVID-19 Coverage', 25 March 2020
www.voanews.com/extremism-watch/iran-uses-arrests-censorship-silence-critical-covid-19-coverage

²⁹ CPJ, 'Amid coronavirus pandemic, Iran covers up crucial information and threatens journalists', 20 March 2020
cpj.org/blog/2020/03/amid-coronavirus-pandemic-iran-covers-up-crucial-i.php

³⁰ CPJ, n19

³¹ CPJ, n19

many Iranian journalists who do not have other sources of income³². Although the decree allows media outlets to report on their website or on social media, the Committee to Protect Journalists noted that the only paper to have published a full digital edition on 31 March appeared to be *Iran*, a paper supervised by the president's office.

Iranian journalists abroad are working hard to shed some light on the real progression of the virus in Iran, but reliable sources inside the country are scarce. Although Iran already had a poor record of press freedom and freedom of expression, this heightened censorship and control of the media is especially detrimental as it actively hinders the fight against the virus itself. Honouring the state's commitment to freedom of expression is even more crucial now, in the context of the global pandemic.

Pakistan

Alarming reports are coming out of Pakistan's Balochistan region, Pakistani journalist Sajid Hussain Baloch, Editor in Chief of the news website *Balochistan Times*, disappeared from his home in Sweden, where he lives in exile, and some have already started looking towards Pakistan's security agencies³³.

The province of Balochistan, neighbouring Iran, is reported to be very vulnerable to the pandemic, as its healthcare system drastically lacks infrastructure and competent medical staff. As an important hub for pilgrims on their way to religious sites in Iran, the whole region is particularly exposed to the disease³⁴. Reports further suggest that thousands of Pakistanis returning from Iran are being kept in camps near border towns in forced quarantine and very poor conditions, pushing some of them to protest or flee the quarantine. While many have blamed both the central and provincial governments for their late response to the threat of the coronavirus, there are fears of heightened sectarianism in the country, as pilgrims returning from Iran are Shia Muslims, and have therefore attracted blame from the Sunni majority. The significant Shia minority has already been singled out, with stricter quarantine measures in areas where they constitute a majority³⁵.

As the full extent of the virus is still unfolding in Pakistan, and as the health crisis is threatening to trigger a social and ethnic crisis in the Balochistan province, reports of the disappearance of a Baloch journalist exiled in Sweden is especially worrying. Although there is no evidence linking a Pakistan agency to the disappearance of Sajid Hussain Baloch, it is crucial that Pakistani authorities offer their full cooperation in the investigation led by the Swedish police. An attack on an independent journalist at a time of deep concern for the unfolding situation in Pakistan would be tantamount to an attack on democratic values and a blow dealt to civil society's efforts to ensure transparency and efficiency in the fight against Covid-19.

Myanmar

The arrest on Monday 30 March of the Editor of Mandalay-based *Voice of Myanmar*, U Nay Myo Lin, for interviewing the spokesperson for the Arakan Army, a group declared unlawful and terrorist by

³² CPJ, 'Iran bans printing of all newspapers, citing spread of coronavirus', 31 March 2020 cpj.org/2020/03/iran-bans-printing-of-all-newspapers-citing-spread.php

³³ The Guardian, 'Exiled Pakistani journalist goes missing in Sweden', 31 March 2020

www.theguardian.com/world/2020/mar/31/exiled-pakistani-journalist-goes-missing-in-sweden

³⁴ Unrepresented Nations & Peoples Organizations, 'Balochistan: Healthcare System Lacks Infrastructure to Deal with COVID-19', 31 March 2020 unpo.org/article/21795

³⁵ South Asian Voices, 'Covid-19 in Balochistan', 30 March 2020 southasianvoices.org/covid-19-in-balochistan/

the government only a week before, raises concerns over the general situation and treatment of journalists in Myanmar³⁶.

U Nay Myo Lin was charged under the country's anti-terrorism law, which prohibits individuals from contacting and associating with outlawed organisations. If convicted, he could be sentenced to up to ten years in prison. U Nay Myo Lin maintains he only sought to do his duty as a journalist.

Independent journalists are essential to a functioning democracy, and especially so in times of crisis. Such repressive measures against freedom of speech are ill-considered as they may instil fear among other journalists, when what is needed is resolve and freedom from fear, threats and coercion. Considering the difficult times ahead, states should focus on honouring their commitments to human rights, including free speech and the public's right to know.

Mexico

On 30 March 2020, journalist María Elena Ferral was gunned down by masked men in Paplanta³⁷, becoming the first reported journalist murdered in Mexico this year. María Elena Ferral often reported on violations of human rights including kidnappings and enforced disappearances within her state, and had been subject to threats over the years³⁸. Mexico ranks 144 on the Reporters Without Borders (RSF) World Press Freedom Index in 2019 and RSF reported on the murder of Ferral, the 18th female journalist to be killed in Mexico since 2005, noting that she had previously been provided protection by Veracruz State Commission for the Attention and Protection of Journalists (CEAPP). However, protections were removed in 2017 as she had allegedly not made 'good use' of the protections provided. The IBAHRI joins RSF in calling for an urgent investigation into María's murder and stands with reporters in the municipality of Paplanta who are protesting the assassination and demanding justice³⁹.

Azerbaijan

Azerbaijani journalist and opposition member Tofiq Yagublu has been detained since 22 March 2020 on a charge of 'hooliganism', Tofiq may face up to seven years in prison if convicted. The exact circumstances of his arrest, as well as the real reasons of his persecution, are unclear. However, it is reported that Tofiq Yagublu was arrested in the capital Baku on 22 March 2020 following a car accident and the Baku City Court remanded Tofiq Yagublu in custody for three months. We have received reports that his rights were violated on several occasions, as he suffered ill treatment in prison and denials of his right to a fair trial in the courtroom. Tofiq's relatives are especially concerned at this time given his age (59 years) and weakened physical state by previous stays in prison and the ill treatment inflicted on him in the past.

As in many other countries, the coronavirus is spreading fast in Azerbaijan, and keeping this vulnerable individual in jail is not only a violation of his right to freedom of expression and an attack against freedom of thought, as he is a member of an opposition party, but may also be a violation of his right

³⁶ Myanmar Times, 'Myanmar editor faces terror charges over interview with AA', 31 March 2020 www.mmmtimes.com/news/myanmar-editor-faces-terror-charges-over-interview-aa.html

³⁷ Reporters Without Borders (RSF), 'Mexico. Woman journalist gunned down in Mexico's Vera Cruz state,' 31 March 2020 rsf.org/en/news/mexico-woman-journalist-gunned-down-mexicos-vera-cruz-state

³⁸ RSF, n37

³⁹ Informador, 'Reporteros de Veracruz protestan por el asesinato de María Elena Ferral' www.informador.mx/mexico/Reporteros-de-Veracruz-protestan-por-el-asesinato-de-Maria-Elena-Ferral-20200331-0162.html

to bodily integrity as protected by Article 3 of the European Convention on Human Rights, which the State of Azerbaijan ratified in 2002.

Turkey

Last week, twenty Saudis including two top advisers to Crown Prince Mohamed bin Salman, as well as several intelligence operatives and forensic experts, were charged with ‘causing torment’ to and ‘deliberately and monstrously killing’ Saudi journalist Jamal Khashoggi.

Agnes Callamard, United Nations Rapporteur on extrajudicial killings, welcomed the indictment on 25 March 2020 of 20 Saudi nationals by Turkish prosecutors, praising this ‘counterbalancing’ of the ‘travesty of justice at the hands of Saudi Arabia’⁴⁰. Former high-ranking members of the Saudi establishment are involved, including former Royal Court Adviser Saud al-Qahtani and former Head of Intelligence Ahmed al-Asiri. The suspects are charged with ‘instigating a premeditated murder with the intent of [causing] torment through fiendish instinct’.⁴¹ Arrest warrants have been issued, however, since none of the 20 suspects are in Turkey, the Turkish prosecutor announced that a trial *in absentia* would be opened against them, seeking life imprisonment in all cases, but gave no date for it yet⁴².

Although this indictment is overdue, coming more than a year and a half after the assassination, it comes as good news for all defenders of freedom of expression and critics of the Saudi regime. Saudi Arabia has maintained that Jamal Khashoggi was the victim of a failed operation by rogue’ agents, who ‘took a repatriation mission too far’⁴³, and that there had been no premeditation to kill, contrary to what the UN inquiry, and now the Turkish indictment, concluded⁴⁴. A Saudi court put 11 unnamed individuals on trial and sentenced five to death in December 2019, in a judgment widely denounced as unfair and manipulated, which led to the conviction of ‘hit-men’ while the masterminds once again enjoyed impunity⁴⁵. Western governments have concluded, along with the American CIA, that Khashoggi was assassinated on the order of the Crown Prince.

Incidentally, this move by Turkish prosecutors has angered Riyadh, and thus further strained the relationship between Saudi Arabia and Turkey. However, Turkish President Recep Tayyip Erdogan has vowed that Turkey would not give up the case⁴⁶. The IBAHRI is especially concerned with the absence of cooperation on the part of Saudi authorities and the apparent immunity of Saudi leaders, and especially Crown Prince Mohamed bin Salman, against any type of scrutiny, whether domestic or international. It is increasingly worrying to see world leaders enjoy seemingly absolute impunity for this crime even when a strong body of evidence suggests that they had at least prior knowledge of the event, if not a direct causal link to it.

⁴⁰ Reuters, ‘U.N. rights expert welcomes Turkish indictments, urges US to release Khashoggi file’, 25 March 2020 uk.reuters.com/article/uk-saudi-khashoggi-turkey-un/un-rights-expert-welcomes-turkish-indictments-urges-us-to-release-khashoggi-file-idUKKBN21C1UI

⁴¹ The Guardian, ‘Turkey charges 20 Saudis over Jamal Khashoggi murder’, 25 March 2020 www.theguardian.com/world/2020/mar/25/turkey-charges-20-saudis-over-jamal-khashoggi

⁴² The Guardian, n2

⁴³ The Guardian, n2

⁴⁴ The New Arab, ‘Turkey charges 20 Saudis, including MbS, over ‘monstrous’ Khashoggi murder’, 25 March 2020 english.alaraby.co.uk/english/news/2020/3/25/turkey-charges-20-saudis-over-monstrous-khashoggi-murder

⁴⁵ BBC News, ‘Jamal Khashoggi: Saudis sentence five to death for journalist’s murder’, 23 December 2019 www.bbc.co.uk/news/world-middle-east-50890633

⁴⁶ The New Arab, n3

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.

Bangladesh

Authorities in Bangladesh have reportedly been cracking down on social media, regarding information linked to the virus. The government has announced the monitoring of each television channel, as well as social media for 'rumours' and 'propaganda' regarding the coronavirus. A special unit has been formed by the Information Ministry to take charge of the monitoring⁴⁷.

Targeted individuals include two college teachers, who were allegedly suspended for posting provocative statements on social media about the virus⁴⁸. A university researcher is being investigated for co-authoring a study of the projected impact of the virus in Bangladesh⁴⁹. Two men were arrested and a case filed against a third, under the 2018 Digital Security Act, for allegedly spreading rumours that a police officer has contracted the virus. Dr Iftekhar Adnan was reportedly arrested for the same reason, after an audio clip of a conversation he had with a friend over the phone went viral, in which he expressed concern over a rising death toll in the city of Chattogram, and the withholding of information by the authorities. The police has alleged Adnan is a supporter of opposition party Bangladesh Nationalist Party, which gives the arrest a political connotation and raises fear that the government may be trying to use the context to silence the opposition⁵⁰.

China

On 19 March 2020, in a [statement](#), the IBAHRI condemned the decision by the Chinese government to expel American journalists working for *The New York Times*, *The Wall Street Journal* and *The Washington Post*, and urged the People's Republic of China and the United States to refrain from unduly restricting media freedom or seeking to curtail international monitoring. China also declared that the journalists would not be allowed to work from Hong Kong or Macau, which compromises the political system of 'one country, two systems' that provides autonomy under which Hong Kong operates.

This expulsion comes as a retaliation to restrictions imposed by the US State Department on February 18 2020 on employees of several Chinese news organisations. The assimilation of their status to that of state operatives altered their right to work in the US, effectively forcing 60 Chinese employees out of the country. China has proceeded with its decision to expulse American journalists and demand that these outlets, along with reporters working for the *Voice of America* and *Time Magazine*, provide extensive information about their staff, finance, operation and real estate in China. China has accused the United States of engaging in a politically motivated oppression of its journalists, and denounced a prejudiced 'cold war mentality'.

⁴⁷ Human Rights Watch, 'Bangladesh: End Wave of COVID-19 'Rumor' Arrests', 31 March 2020
www.hrw.org/news/2020/03/31/bangladesh-end-wave-covid-19-rumor-arrests

⁴⁸ Human Rights Watch, n24

⁴⁹ Netra News, 'Researcher in trouble for co-authoring Bangladesh Covid-19 projection', 22 March 2020
netra.news/2020/researcher-in-trouble-for-co-authoring-bangladesh-covid-19-projections-884

⁵⁰ The Daily Star, 'Spreading Rumours: Doctor put on 3-day remand', 23 March 2020
www.thedailystar.net/city/news/spreading-rumours-doctor-put-3-day-remand-1884649

Baroness Helena Kennedy QC, IBAHRI Director and member of the High Level Panel of Legal Experts on Media Freedom remarked, ‘these restrictions, strictly political in nature, point to a worrying disregard for the necessity in democratic systems to implement transparency and allow the press to operate independently and freely. It is when media freedom is most needed that it is most violated, and we should look to prominent actors like the United States and China to set an example in times of hardship’.

Uzbekistan

The Uzbek government has also taken drastic measures aimed at curbing the spread of the coronavirus, which may infringe on individual freedoms. Deputy Justice Minister Khudoyor Meliyev has stated that people diagnosed with the virus and placed in quarantine would see their bank cards, mobile phones, audio and video equipment temporarily confiscated because these objects are often carriers of the virus,⁵¹ raising concerns regarding both the necessity and the proportionality of such measures.

These restrictions of free speech, imposed at such a critical time, are not only infringing on freedom of the press, but also on the public’s right to know. These rights are especially crucial now, as our world is going through the unprecedented crisis sparked by the Covid-19 pandemic.

⁵¹ Eurasianet, ‘Dashboard: Coronavirus in Eurasia’, 1 April 2020 eurasianet.org/dashboard-coronavirus-in-eurasia

5. Digital rights and internet shutdowns

Governments that are currently imposing an internet shutdown in states including Ethiopia, Jammu and Kashmir, Bangladesh, and Myanmar⁵², restricting the flow of information during the Covid-19 global crisis.

Ethiopia

As of 1 April 2020, there have been 29 confirmed cases of the novel coronavirus disease in Ethiopia⁵³, and the government is employing various means to raise awareness about the pandemic⁵⁴. However, due to the communications blackout in western Oromia, millions of Ethiopians living in the region face disruption in life-saving services and remain in the dark about essential information concerning health risks and guidance on prevention of the Covid-19 disease. Healthcare infrastructure in Ethiopia, which is already insufficient to deal with the coronavirus crisis, may fail to mitigate the pandemic in an area with little life-saving information and awareness⁵⁵.

Western Oromia's Kellem Wellega, West Wellega, and Horo Gudru Wellega zones face a two-month long ban on mobile phone networks, landlines and internet services. There is an ongoing conflict between the Ethiopian military forces and the rebel forces of Oromo Liberation Army (OLA), and the communications ban is presumably a part of the Ethiopia's counterinsurgency efforts in the region⁵⁶. While the government maintains that such efforts are aimed at restoring peace in western Oromia, locals have claimed that the military presence has led to further instability and human rights abuses such as unwarranted killings⁵⁷, beatings and mass detentions⁵⁸.

Imposing a communication ban during the Covid-19 pandemic is in clear contravention of Ethiopia's obligations under international human rights law. These obligations include protection of the right to freedom of speech and expression guaranteed under Article 19 of the Universal Declaration of Human Rights (UDHR), and the right to medical service and protection of healthcare workers under Article 12 of the International Covenant on Civil and Political Rights (ICCPR). A restriction on internet and communication services in light of a pandemic also violates the Siracusa Principles, adopted by the UN Economic and Social Council in 1984, which state that emergency restrictions during a health crisis should be least intrusive to achieve the objective.

Jammu and Kashmir

From August 2019 – when the Indian government abrogated Kashmir's special status granted under the Constitution of India – to March 2020, a complete communications shutdown was imposed on the Kashmir Valley. The government stated that the move was necessary to maintain peace in the region. The seven-month ban was the longest internet and social media blackout in the history of a

⁵² Human Rights Watch (HRW), 'End Internet Shutdowns to Manage COVID-19', 31 March 2020 www.hrw.org/news/2020/03/31/end-internet-shutdowns-manage-covid-19

⁵³ Al-Jazeera, 'Coronavirus: Which countries have confirmed cases?' 3 April 2020 www.aljazeera.com/news/2020/01/countries-confirmed-cases-coronavirus-200125070959786.html

⁵⁴ HRW, 'Millions of Ethiopians Can't Get COVID-19 News,' 20 March 2020 www.hrw.org/news/2020/03/20/millions-ethiopians-cant-get-covid-19-news

⁵⁵ HRW, n54

⁵⁶ HRW, 'Ethiopia: Communications Shutdown Takes Heavy Toll', 9 March 2020 www.hrw.org/news/2020/03/09/ethiopia-communications-shutdown-takes-heavy-toll

⁵⁷ AFP News, 'Ethiopia's Abiy faces outcry over crackdown on rebels,' 29 February 2020 sg.news.yahoo.com/ethiopias-abiy-faces-outcry-over-crackdown-rebels-040754034.html?guccounter=1

⁵⁸ HRW, n56

democracy; the full ban was temporarily lifted for a period of two weeks. Mobile data speeds are now capped at a 2G level, a speed so slow it renders usage impractical, continuing enforcement of the shutdown. The pre-ban, high-speed 4G internet connection remains unavailable to the Kashmiri people.

As of 25 March 2020, seven people in Jammu and Kashmir have tested positive for the novel coronavirus disease⁵⁹. The region is now also under physical lockdown as part of a nationwide curfew to contain the spread of the disease. Consequently, this has led to a higher dependence on the internet for healthcare services, work and other important communications. However, due to the slow speed of internet connection, healthcare professionals are unable to access guidelines for intensive care and other important data relating to managing the coronavirus disease. Furthermore, employees are unable to work from home and students cannot access online classes or academic content as schools and universities close. As a result, millions of people residing in Kashmir face grave risks to health and economic and social welfare.

In a [press release on the issue this week](#), the IBAHRI referred to India's international legal obligations to protect the right to freedom of speech and expression as reports about the restrictions being lifted have been refuted.

The IBAHRI is greatly concerned by the use of internet shutdowns during this crisis. While necessary restrictions on everyday life are taking place, these are importantly temporary and proportionate. Internet shutdowns are, instead, disproportionate and unnecessary. In normal circumstances this would be an arbitrary measure, but in light of the current crisis, it is especially dangerous and a serious threat to the rights of citizens.

⁵⁹ The Economic Times, 'Jammu and Kashmir reports three more positive cases of Covid-19', 25 March 2020 economictimes.indiatimes.com/news/politics-and-nation/jammu-and-kashmir-reports-three-more-positive-cases-of-covid-19/articleshow/74803535.cms