



SILENCED AND MISINFORMED

FREEDOM OF EXPRESSION IN DANGER DURING COVID-19

AMNESTY
INTERNATIONAL



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GLOSSARY

WORD	DESCRIPTION
MISINFORMATION AND DISINFORMATION	Misinformation is a term usually employed to describe false or inaccurate information shared without malicious intent. Disinformation usually refers to false or inaccurate information shared to deliberately deceive or mislead people. For brevity and ease, this report uses the word “misinformation” when referring to both misinformation and disinformation, unless the issue of disinformation needs to be specifically named. However, as noted by the UN Special Rapporteur on Freedom of Expression, “[t]here is no universally accepted definition of disinformation [partly because of the] impossibility of drawing clear lines between fact and falsehood and between the absence and presence of intent to cause harm”. ¹
FAKE NEWS	This term originally referred to false, often sensational news and stories, created and shared to generate revenue, or as part of disinformation and propaganda campaigns. However, in recent years, the term “fake news” has also been used by a range of officials and politicians to label genuine information and legitimate commentary and opinions, to undermine and discredit stories, opinions and reporting that are critical or independent of them.
INFODEMIC	The World Health Organization (WHO) uses the word “infodemic” - a portmanteau of the information and epidemic - to describe an overabundance of “information including false or misleading information in online and offline during a disease outbreak. It causes confusion and risk-taking behaviours. It also leads to mistrust in health recommendation and undermines the public health response. An infodemic can intensify or lengthen outbreaks when people are unsure about what they need to do to protect their health and the health of people around them. With growing [...] expansion of social media and internet use – information can spread more rapidly. This can help to more quickly fill information voids but can also amplify harmful messages.” ²
MEDIA AND INFORMATION LITERACY	Media and information literacy refers to a set of competencies that empower individuals to access, retrieve, understand, evaluate and use, to create as well as share information and media content in all formats, using various tools, in a critical, ethical and effective way, in order to participate and engage in personal, professional and societal activities. ³
VACCINE HESITANCY	Vaccine hesitancy refers to delay in acceptance or refusal of vaccines despite availability of vaccine services. It is complex and context specific, varying across time, place and vaccines. It is influenced by factors such as complacency, convenience and confidence. ⁴

¹ UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, *Disinformation and freedom of opinion and expression*, 13 April 2021, UN Doc. A/HRC/47/25, para. 10.

² WHO, “Infodemic”, who.int/health-topics/infodemic#tab=tab_1 (accessed 19 September 2021)

³ UNESCO, *Global Media and Information Literacy Assessment Framework: Country Readiness and Competencies*, 2013, p. 17

⁴ WHO, *Report of the SAGE Working Group of vaccine hesitancy*, 1 October 2014, who.int/immunization/sage/meetings/2014/october/1_Report_WORKING_GROUP_vaccine_hesitancy_final.pdf, p. 7.

1. EXECUTIVE SUMMARY

The right to freedom of expression has been attacked globally in the context of the Covid-19 pandemic and thus increased the dangers posed by the public health crisis. The right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds,⁵ is a human right which enables everyone to enjoy a range of other human rights, including the right to health.⁶

Freedom of expression is vitally important during complex public health crises like the Covid-19 pandemic, because a free flow of accurate, evidence-based and timely information increases awareness about health risks and how to prevent and deal with them. Open debate and scrutiny can ensure higher levels of trust in public health measures and help challenge misinformation and allow the necessary exchange of information to find effective ways of tackling the crisis. Freedom of expression is key to holding governments accountable for their policy responses to the health crisis.

Indeed, the ability of everyone to engage in a debate about possible solutions and contribute to the response is a crucial element in overcoming the crisis itself. Winning the battle against the virus includes not just government-led actions, but also bottom-up approaches which can only come about if freedom of expression and access to information are enabled. As the World Health Organization puts it, to be able to successfully fight back Covid-19, states should “inform, empower and listen to communities”.⁷

However, in the current Covid-19 context, governments have curtailed freedom of expression instead of encouraging it.

Governments have put up barriers to activities like reporting and sharing opinions and used the pandemic as a pretext to muzzle critical voices. As Chapter Two of this report highlights, in the name of protecting public health or curbing the spread of “fake news” and to “prevent panic”, some governments have used legislation and other measures to restrict human rights beyond what is permitted under international law. Governments that have long kept a tight control over what is shared in the public domain with overly restrictive legislation, have used the pandemic as another excuse to apply laws to censor and silence criticism, debate, and the sharing of information. Other governments have used the widespread alarm and confusion generated by the pandemic to rush through new legislation and other emergency measures that are not only disproportionate but also ineffective to deal with issues such as misinformation. In addition, communication channels have been selectively restricted, including by censoring social media, shutting down internet access and closing down media outlets, sometimes as a means to control and punish certain groups and voices, sometimes at sensitive times, such as before and during elections. This has impaired independent and public interest reporting and people have been cut out from vital information about Covid-19, which is key to enable people to access health information, and challenge rumours and misinformation.

Chapter Three, *Target one intimidate a thousand*, looks at specific attacks on individuals who have dared to speak up during this challenging time, and how the pandemic has provided governments across the world with another excuse to suppress independent and critical voices, showing their inability to accept criticism, scrutiny and differing opinions. Across the world, journalists, political activists, medical professionals, whistle-blowers and human rights defenders who expressed critical opinions of their governments’ response to the crisis have been censored, harassed, attacked and criminalized. This has contributed to a climate of fear and

⁵ International Covenant on Civil and Political Rights (ICCPR), Article 19.

⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 12.

⁷ WHO, “WHO Director-General’s opening remarks at the media briefing on COVID-19 - 3 August 2020”, [who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---3-august-2020](https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---3-august-2020) (accessed on 19 September 2021)

intimidation that has exacerbated the already widespread uncertainty and sense of fragility created by the pandemic.

Amnesty International is concerned that all of these Covid-19 related restrictions on freedom of expression, from legislation to targeting of individuals and media, are not just time-bound, extraordinary measures to deal with a temporary crisis, but are part of an onslaught on human rights and civic space that has been taking place globally in the last few years. This report shows that States are taking advantage of a time of crisis to further clamp down on human rights. Indeed, as we see the lifting of some pandemic restrictions such as on travel or physical distancing, restrictions on freedom of expression continue in place.

Chapter Four, *Misinformation undermining the fight on Covid-19*, looks at the serious threat presented by misinformation on the right to freedom of expression and the right to health. Long before the arrival of Covid-19, the world was already facing serious problems with regards to misinformation, propaganda and conspiracy theories. However, the uncertainty and confusion created by the pandemic provided new steam for the rapid spread of false or misleading information, which undermined efforts by governments and public health authorities to contain the transmission of the virus, provide adequate treatment, and encourage the uptake of vaccines when available. As global efforts are underway to ensure that vaccines are distributed and made available to everyone around the world, providing accurate, evidence-based and timely information will be a crucial step to minimize vaccine hesitancy driven by misinformation.⁸

Misinformation on different aspects of the pandemic has contributed to behaviours such as the consumption of harmful products as a cure for Covid-19, vaccine hesitancy or the refusal to comply with public health recommendations, such as mask wearing.⁹ Amnesty International considers that social media companies have serious questions to answer over whether they have done enough due diligence to prevent the spread of false and misleading information. At the same time, misinformation has also been driven by unscrupulous messaging and manipulation by those seeking to spread confusion for their own gain, including politicians. The danger of living in a world where misinformation is so prevalent, is that it is harder than ever for individuals to form a fully informed opinion, and make choices about their health based on the best available scientific facts.

In line with their human rights obligations to protect the rights to access to information and to health, States are responsible for providing a swift and competent response to the problem of misinformation in the current Covid-19 crisis. Shutting down free access to information and freedom of expression violates human rights and does not address the problem and leads to mistrust and disengagement. Instead, States must develop public health information campaigns that reach all sectors of society; they must provide support for media freedom and public interest journalism; and invest in media and information literacy and health education.

The report ends with a list of recommendations, urging States to:

- stop using the pandemic as an excuse to silence independent reporting, debate and scrutiny;
- urgently lift all undue restrictions on the right to freedom of expression and guarantee the free flow of information as a key approach to protecting the right to health and enabling an inclusive recovery;
- provide credible, reliable, accessible, objective and evidence-based information, by ensuring transparency, creating an enabling environment for independent, public interest journalism and independent civil society, and engaging diverse communities.

In addition, Amnesty International urges social media companies to face up to their responsibilities and take measures to address the viral spread of misinformation, including by improving the transparency and oversight of their business practices and content moderation policies and procedures.

Restricting freedom of expression must not become the new normal. Restrictions to the right to seek, receive and impart information and ideas of all kinds must be lifted as they are not only unnecessary and excessive, but also counterproductive in dealing with the pandemic. The solutions to the huge problems created by the pandemic are out there. Enabling the full enjoyment of freedom of expression is key in finding them.

⁸ On 22 September 2021, Amnesty launched the campaign “100 DAY COUNTDOWN: 2 BILLION COVID-19 VACCINES NOW!” calling on governments and pharmaceutical companies to meaningfully address global vaccine inequality so millions more people have the opportunity to be vaccinated by the end of the year. See also Amnesty International, *A Double Dose of Inequality: Pharma Companies and the Covid-19 Vaccines Crisis*, (Index: POL 40/4621/2021), 22 September 2021, [amnesty.org/en/documents/pol40/4621/2021/en/](https://www.amnesty.org/en/documents/pol40/4621/2021/en/)

⁹ See for example, Loomba, S., de Figueiredo, A., Piatek, S.J. *et al.*, “Measuring the impact of COVID-19 vaccine misinformation on vaccination intent in the UK and USA”, *Nature Human Behaviour*, vol. 5, 337–348, 5 February 2021, doi.org/10.1038/s41562-021-01056-1; Jon Roozenbeek, Claudia R. Schneider, Sarah Dryhurst, John Kerr, Alexandra L. J. Freeman, Gabriel Recchia, Anne Marthe van der Bles, Sander van der Linden, “Susceptibility to misinformation about COVID-19 around the world”, *Royal Society Open Science*, vol. 7, 14 October 2020, doi.org/10.1098/rsos.201199

2. FREEDOM OF EXPRESSION AT RISK

2.1 FREEDOM OF EXPRESSION IN A PANDEMIC

Protecting the right to freedom of expression, including the right to seek, receive and impart information, ideas and opinions of all kinds is key at any time, and vitally important during complex public health and socio-economic crises like the one presented by the Covid-19 pandemic. A free flow of accurate, evidence-based and timely information ensures higher levels of awareness about health risks and how to deal with them, fosters trust in and compliance with public health guidelines, and enables civil society to hold governments accountable for their policy responses and their effects on different sectors of society. Crucially, as highlighted by freedom of expression organization Article 19, it enables experts to scrutinise and propose improvements to government decisions and allows countries to share and learn from each other's experiences,¹⁰ speeding up our understanding of the disease and coordinate a response that requires global action.

Enabling freedom of expression and access to information facilitates wider contributions from diverse actors and fosters engagement and debate about viable solutions to overcome crises in a way that takes into account the needs and concerns of affected communities, so that public health measures and products are accessible and acceptable to as many people as possible. This is why the World Health Organization (WHO) called on governments in the early days of the pandemic to "inform, empower and listen to communities."¹¹ And indeed, activists and civil society groups have stepped up in many parts of the world to ensure that government responses respect human rights and that those most marginalized are listened to and informed, and enabling access to essential services.¹²

Given the potential for the introduction of sweeping policy measures and resource allocation, freedom of information can also enable the media and the public to challenge measures that might be discriminatory, harmful, or that raise concerns about corruption and misuse of resources, for example in procurement or distribution of health products and other public services.¹³

Finally, ensuring access to trustworthy, evidence-based and reliable information from a variety of sources and voices is also an effective way of addressing misinformation and fostering an environment in which rumours can be challenged and people can make up their minds regarding erroneous information.¹⁴

Instead, numerous countries have restricted the right to freedom of expression during a crucial time that required precisely the opposite. The way in which many countries continue to handle the Covid-19 pandemic has shown how the global emergency and widespread uncertainty have been exploited by those in power to tighten their grip on power, rush through legislation that erodes human rights, and muzzle critical voices. Except in very specific circumstances,¹⁵ none of these restrictions are necessary, and especially not in the

¹⁰ Article 19, *Ensuring the public's right to know in the Covid-19 pandemic*, May 2020, [article19.org/wp-content/uploads/2020/05/Ensuring-the-Publics-Right-to-Know-in-the-Covid-19-Pandemic_Final_05.05.20-PgBrk.pdf](https://www.article19.org/wp-content/uploads/2020/05/Ensuring-the-Publics-Right-to-Know-in-the-Covid-19-Pandemic_Final_05.05.20-PgBrk.pdf)

¹¹ WHO, "WHO Director-General's opening remarks at the media briefing on COVID-19, 3 August 2020" (previously cited)

¹² Inés Pousadela, "Access to Information During a Pandemic – A Matter of Life or Death", 25 September 2020, [justsecurity.org/72557/access-to-information-during-a-pandemic-a-matter-of-life-or-death/](https://www.justsecurity.org/72557/access-to-information-during-a-pandemic-a-matter-of-life-or-death/)

¹³ Article 19, *Ensuring the public's right to know in the Covid-19 pandemic* (previously cited)

¹⁴ UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, *Disease pandemics and the freedom of opinion and expression*, 23 April 2020, UN Doc. A/HRC/44/49, para. 6.

¹⁵ ICCPR, Article 19(3) and 20(2).

case of sharing information and opinions in relation to the pandemic as can be seen in the examples below. In addition, Amnesty International is concerned that all of these Covid-19 related restrictions on freedom of expression, from legislation to targeting of individuals and media, are not just extraordinary measures to deal with a temporary crisis, but are part of an onslaught on human rights and civic space that has been taking place in the last few years in all parts of the world.¹⁶ The examples below shows that States are taking advantage of a time of crisis to further clamp down on human rights. Indeed, as we see the lifting of some pandemic restrictions such as on travel or physical distancing, restrictions on freedom of expression continue to stay in place. Amnesty International shares the concern with the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, that the response to the Covid-19 virus has been used as a “pathogen of repression”¹⁷ in far too many countries.

Restricting freedom of expression must not become the new normal. Instead, these measures should be lifted as they are not only unnecessary and excessive, they are also counterproductive in dealing with the pandemic.

2.2 MISUSE OF EXISTING MEASURES OF REPRESSION DURING THE PANDEMIC

Legislation designed to repress the right to freedom of expression has long been used by officials to criminalize and muzzle independent journalists, human rights defenders, critics, and even ordinary people posting their views on social media. Such legislation, often written in broad or vague terms, has allowed officials to arbitrarily determine what may constitute criminal behaviour, often in relation to ill-defined notions such as “fake news”, “morals”, “threats to national security”, or “terrorism”. The existence of such vague laws has been a tool for controlling what is discussed in public and gives the authorities the power to censor uncomfortable information and determine what is considered to be true or false, offensive, dangerous or seditious in a way that enables them to target dissenting and critical voices. Since 2020, the pandemic has provided a new context in which such legislation can be used to effectively shut down independent reporting and other voices under the guise of protecting public health. This has stifled public debate and the ability to access reliable and trustworthy information about the pandemic and has instilled fear in journalists and all those criticizing government measures or sharing information online or offline. It has also directly endangered the lives of those arrested and sent to prison solely for exercising their right to freedom of expression, where Covid-19 has increased the risks to their health and lives.¹⁸

For example, **China** has a history of controlling freedom of expression and access to information online and offline, and the authorities regularly control and censor all types of media, from print to social media. The pandemic has been no exception to this. In the early stage of the epidemic, health workers, professional and citizen journalists attempted to raise the alarm as early as December 2019, but they were targeted for reporting on the outbreak of what was then an unknown disease. By 21 February 2020, there were already more than 5,511 criminal investigations opened against individuals who published information in relation to the outbreak for “fabricating and deliberately disseminating false and harmful information”, according to the Ministry of Public Security.¹⁹ Numerous articles relating to the virus were censored by the authorities, including many published by mainstream media. Extensive application of personal and technological surveillance in the name of public health and safety further tightened the state’s grip on society. The authorities also blocked hundreds of keyword combinations on social media and messaging apps. Online posts that expressed dissent, contained sensitive hashtags related to the outbreak or demanded free speech were quickly deleted.²⁰

¹⁶ Amnesty International, *Laws designed to silence: the global crackdown on civil society organizations*, 21 February 2019, [amnesty.org/en/documents/act30/9647/2019/en/](https://www.amnesty.org/en/documents/act30/9647/2019/en/); CIVICUS, *People power under attack 2020: a report based on data from the Civicus Monitor*, findings2020.monitor.civicus.org/ (accessed on 19 September 2021)

¹⁷ UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kaye, *Disease pandemics and the freedom of opinion and expression* (previously cited), para. 4

¹⁸ Amnesty International, *Daring to stand up for human rights in a pandemic* (Index: ACT 30/2765/2020), 5 August 2020, [amnesty.org/en/documents/act30/2765/2020/en/](https://www.amnesty.org/en/documents/act30/2765/2020/en/)

¹⁹ Amnesty International, *Report 2020/2021: the state of the world’s human rights* (Index: POL 10/3202/2021), 7 April 2021, [amnesty.org/en/documents/pol10/3202/2021/en/](https://www.amnesty.org/en/documents/pol10/3202/2021/en/), p. 121

²⁰ Amnesty International, *Report 2020/2021: the state of the world’s human rights*, p.122

According to experts working with Citizen Lab,²¹ censorship of terms relating to Covid-19 on social media and messaging apps started early on in the health crisis: “[J]ust a day after Dr. Li Wenliang and other medical professionals tried to inform the public about the outbreak, [live streaming platform] YY began to censor information related to the epidemic on its platform. [Social media and messaging app] WeChat restricted content pertaining to government criticism, speculation about the Covid-19 epidemic, and collective action, factual information related to Covid-19 and neutral references to government policies responses outbreak.”²²

In **Thailand**, the government has used a series of repressive laws to crack down on critical voices for several years. These include the Computer Crimes Act, which was amended in 2016 to give authorities license to monitor and suppress online content and prosecute individuals for various broadly defined violations of the law.²³ In addition, the Thai Criminal Code criminalizes defamation, in effect empowering the authorities to jail people deemed to have “impaired the reputation” of public officials, while the *lèse majesté* law continues to be used to prosecute perceived critics of the monarchy, including those who simply share clips on social media, such as in the case of Anchan P., who in January 2021 was sentenced to a staggering 87 years in prison after being held in pre-trial detention between 2015 and 2018.²⁴ In addition, government-run Anti-Fake News Centers were launched in November 2019 to monitor online content that supposedly misleads people. Yet the government has failed to employ credible, independent third parties to factcheck online content deemed ‘fake news’.

While allegations of “hate speech” and false information campaigns against human rights activists have been ignored, authorities have wasted no time using existing repressive laws in order to censor “false” communications related to Covid-19. On 24 March 2020, the Prime Minister of Thailand, General Prayut warned the public that they would be prosecuted if they “abused social media” to criticise the Thai government’s response to the virus. A few days later, the government invoked the Emergency Decree on Public Administration in Emergency Situation (2005) to further control public debate. Under Article 9 of the 2005 Emergency Decree, officials are empowered to censor or edit information they deem to be false or distorted with the potential to create public fear or misunderstanding – which carries a penalty of up to two years in jail. The Emergency Decree has also been used to repress those engaged in 2020 and 2021 demonstrations calling for a new constitution, the resignation of the government, monarchic reforms, and an end to harassment of the opposition by police. Hundreds of people have been arrested, and police have used excessive force against protesters.²⁵ In July 2021, the government also issued Regulation No. 29, which empowers the authorities to censor online expression, and investigate and prosecute individuals responsible for communications that may “instigate fear” or are “intended to distort information to mislead understanding of the emergency situation to the extent of affecting the security of state or public order or good morals of the people”²⁶ under the purported guise of combating the COVID-19 pandemic amid a state of emergency.²⁷

In April 2020, the **Indonesian** National Police Headquarters issued a Telegram Letter²⁸ instructing police on the handling of “hoax spreaders” and any act of insult to the President and his administration during the Covid-19 pandemic, in a measure touted as “maintaining security and order”. The circular ordered police to carry out cyber patrols to monitor developments in cyberspace and to counter criminal acts. The measure is based

²¹ The Citizen Lab is an interdisciplinary laboratory based at the Munk School of Global Affairs & Public Policy, University of Toronto, focusing on research, development, and high-level strategic policy and legal engagement at the intersection of information and communication technologies, human rights, and global security, see citizenlab.ca/about/

²² Lotus Ruan, Jeffrey Knockel, and Masashi Crete-Nishihata, *Censored contagion: how information on the coronavirus is managed on Chinese social media*, Citizen Lab Research Report no. 125, University of Toronto, 3 March 2020, citizenlab.ca/2020/03/censored-contagion-how-information-on-the-coronavirus-is-managed-on-chinese-social-media/, p. 21.

²³ Amnesty International, “Thailand: Authorities using repressive laws to intensify crackdown on online critics”, 23 April 2020, [amnesty.org/en/latest/news/2020/04/thailand-authorities-using-repressive-laws-to-intensify-crackdown-on-online-critics/](https://www.amnesty.org/en/latest/news/2020/04/thailand-authorities-using-repressive-laws-to-intensify-crackdown-on-online-critics/)

²⁴ Amnesty International, “Thailand: 87-year prison sentence handed in harshest lèse majesté conviction”, 19 January 2021, [amnesty.org/en/latest/news/2021/01/thailand-87-prison-sentence-lese-majeste/](https://www.amnesty.org/en/latest/news/2021/01/thailand-87-prison-sentence-lese-majeste/)

²⁵ Amnesty International, *Thailand: Joint letter on the concerns regarding the right to peaceful assembly* (ASA 39/4663/2021), 1 September 2021, [amnesty.org/en/documents/asa39/4663/2021/en/](https://www.amnesty.org/en/documents/asa39/4663/2021/en/)

²⁶ Civicus, Amnesty International and others, “Thailand: Immediately repeal emergency regulation that threatens online freedoms”, 3 August 2021, [civicus.org/index.php/media-resources/news/5204-thailand-immediately-repeal-emergency-regulation-that-threatens-online-freedoms](https://www.civicus.org/index.php/media-resources/news/5204-thailand-immediately-repeal-emergency-regulation-that-threatens-online-freedoms)

²⁷ On other similar regulations, see also International Commission of Jurists, *The Impact of COVID-19 on the Rights to Freedom of Expression and Information in Thailand*, July 2021, www.icj.org/thailand-covid-19-response-measures-must-not-undermine-freedom-of-expression-and-information/

²⁸ Indonesia, Telegram Letter of the Chief of Police of the Republic of Indonesia Number ST/1100/IV/HUK.7.1/2020, April 2020, hukumonline.com/pusatdata/detail/lt5e8c53d860eab/node/534/surat-telegram-kepala-kepolisian-republik-indonesia-nomor-st-1100-iv-huk71-2020-tahun-2020

on existing criminal law provisions for the crime of “insults to state authorities”, and on the Information and Electronic Information and Transactions Law (ITE Law),²⁹ relating to the distribution of false and misleading news.³⁰ Amnesty International documented at least 57 people accused of spreading “false news” and insulting the President and his administration related to Covid-19 in the first three months since the measure was put in place.³¹ In February 2021, a “virtual police squad”³² was set up to reinforce the measures taken the previous year. The squad has the power to send warnings to users and give them instructions to amend or delete their posts. According to Forum Asia, as of March 2021 about 76 social media accounts have been warned by the virtual police since its establishment, including one which made a comment directed against the President’s son.³³

Uzbekistan already had severe penalties in place for the dissemination of information that could harm the state or cause panic, with prison sentences of up to eight years.³⁴ The language used in the criminal code is vague and broad and has left these legal provisions open to misinterpretation and abuse. In response to the Covid-19 pandemic, the Prosecutor General’s Office set up an interagency working group to monitor social media for ‘fake news’ or misleading information on the spread of the infection.³⁵ Within days, the group identified 33 social media accounts that had allegedly spread false information that caused panic and destabilized the situation in the country. At the end of March 2020, the President introduced even stricter penalties for the dissemination of false information on the spread of the virus, increasing prison sentences from five to a maximum of 10 years in prison. At a time when more voices were raising concerns that the authorities in Uzbekistan were trying to conceal the true extent of Covid-19 infections and failures in the government’s response, the moves by the government made it even more difficult for the people to seek and receive vital information.

Since steps to enable mobile internet access started in 2018, the government of **Cuba** has put in place Decree 370 to control what can be shared online. The decree penalizes the dissemination of “information contrary to social interest, moral values and the integrity of all individuals” with a fine of up to 3,000 pesos (approximately 115 USD) and the confiscation of internet devices. According to the Institute of Peace and War Reporting, the government started to apply the Decree in the context of the pandemic, as journalists were arrested and questioned for publishing stories about shortages of food and other essential products, fined and warned off further reporting or criticism.³⁶

Several African countries have conducted national elections over the past year, where Covid-19 has been another pretext to restrict the rights to freedom of expression and peaceful assembly or to target political opponents during election campaigns. This has been the case of **Tanzania**, where in the past few years the government introduced a raft of laws and used them to silence journalists, civil society organizations, human rights defenders and members of the political opposition, particularly in the run up to the October 2020

²⁹ First enacted in 2008, and amended in 2016, the ITE Law has been used to prosecute hundreds of peaceful activists, media officers and human rights defenders who criticize the government. It contains vague language which has been misused by the government to criminalize the rights to freedom of expression, thought, conscience and religion in Indonesia. The criminal defamation and “incitement” provisions under ITE Law have been used to criminalize freedom of expression. These include Article 27(3), which criminalizes “the conduct of anyone who intentionally and without right distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that contains insults and/or defamation”. Article 28(2) of the ITE Law also criminalizes “the dissemination of information that incites hate or enmity among certain individuals and/or groups based on ethnicity, religion, race or intergroup relation”, Amnesty International, “Indonesia: Papuan farmer imprisoned for Facebook post: Soon Tabuni” (Index: ASA 21/4034/2021), 27 April 2021, [amnesty.org/en/documents/asa21/4034/2021/en/](https://www.amnesty.org/en/documents/asa21/4034/2021/en/)

³⁰ Merdeka, “Kapolri Santai Telegram Covid-19 Soal Penghinaan Presiden Dikritik”, 8 April 2020, [merdeka.com/peristiwa/kapolri-santai-telegram-covid-19-soal-penghinaan-presiden-dikritik.html](https://www.merdeka.com/peristiwa/kapolri-santai-telegram-covid-19-soal-penghinaan-presiden-dikritik.html)

³¹ Amnesty International, *Indonesia: COVID-19 and its human rights impact in Indonesia* (Index: ASA 21/2230/2020), 29 April 2020, [amnesty.org/en/documents/asa21/2238/2020/en/](https://www.amnesty.org/en/documents/asa21/2238/2020/en/)

³² The Jakarta Post, “New ‘virtual police’ adds to fears over loss of online civic space, civil freedoms”, March 2021, [thejakartapost.com/news/2021/03/19/new-virtual-police-adds-to-fears-over-loss-of-online-civic-space-civil-freedoms.html](https://www.thejakartapost.com/news/2021/03/19/new-virtual-police-adds-to-fears-over-loss-of-online-civic-space-civil-freedoms.html)

³³ Forum Asia, *Repressive laws summary, Jan-Mar 2021*, 2021, forum-asia.org/hrlaw/wp-content/uploads/2021/05/Q1-Repressive-laws-summary-1.pdf

³⁴ Radio Odzolik, “In Uzbekistan, the number of COVID-19 cases has reached 10; Spreading panic will be punished with a fine or prison”, 17 March 2020, rus.ozodlik.org/a/30491533.html

³⁵ Radio Odzolik, “Revealed 25 accounts abroad, misinterpreting the situation in the country”, 18 March 2020, rus.ozodlik.org/a/30493704.html

³⁶ Institute for War and Peace Reporting, “Cuba Gags Coronavirus Critics”, 26 June 2020, [iwpr.net/global-voices/cuba-gags-coronavirus-critics](https://www.iwpr.net/global-voices/cuba-gags-coronavirus-critics); <https://www.amnesty.org/en/latest/news/2020/05/cuba-autoridades-deben-garantizar-libertad-prensa-covid-19/>

elections.³⁷ Between March and May 2020, authorities used laws prohibiting and criminalizing “false news” and other measures to restrict media coverage of the government’s handling of the Covid-19 pandemic. The authorities suppressed information about the government’s disregard of global best practice in countering Covid-19,³⁸ and cracked down on critical media without disseminating reliable, accessible and evidence-based information to the public, including on government measures to protect public health.

As part of the crackdown on the media, Star Media Tanzania Limited, Multichoice Tanzania Limited, and Azam Digital Broadcast Limited were each fined five million Tanzania shillings (approximately 2,150 USD) in April 2020 and ordered to apologize for “transmission of false and misleading information” on the country’s approach to managing Covid-19.³⁹ In the same month, the authorities also suspended Mwananchi Newspaper Online for six months and fined the media outlet five million Tanzanian shillings (approximately 2,150 USD) for publishing a photo of the late President John Pombe Magufuli buying fish in his home village of Chato, north-western Tanzania, apparently in breach of physical distancing guidelines. Authorities said the photo was not recent and that Mwananchi Newspaper Online violated the Electronics and Postal (Online Content) Regulations of 2018.⁴⁰ In March 2020, journalist Khalifa Said was dismissed from his job⁴¹ a day after challenging Magufuli’s insistence that Tanzanians continue to attend places of worship during the pandemic and calling on the public to organize rallies to get the government to respond to their demands.⁴² In May 2020, two Kenyan journalists were fined and repatriated in connection with interviews of members of the public in Tanzania on the status of the pandemic in the country,⁴³ while in July 2020, Kwanza Online TV, an independent online newspaper, was suspended for 11 months for reposting an alert by the US embassy in Tanzania regarding the pandemic in the country.⁴⁴ In further efforts to control the narrative over the pandemic in the country, the authorities declared Tanzania “Covid-free” in June 2020 without providing evidence to substantiate the claim. In February 2021, President Magufuli claimed that Covid-19 vaccines could be harmful and recommended people use home remedies to deal with the virus.⁴⁵ President Magufuli died in March 2021 after a short illness that opposition figures claimed was Covid-19.⁴⁶ Four people were arrested for commenting on social media that President Magufuli was ill.⁴⁷

Uganda also held presidential elections in January 2021. Civil society organizations reported a renewed crackdown on freedom of expression and access to social media in the run up to the vote.⁴⁸ As Covid-19 started to spread around the country in March 2020, the Uganda Communications Commission issued a statement saying that anyone spreading false information would be subject to arrest and prosecution under the Computer Misuse Act of 2011, the Data Protection and Privacy Act of 2019 and/or other Penal Laws of Uganda.⁴⁹ This legislative framework has been used during the Covid-19 pandemic to criminalize freedom of expression and to penalize journalists and writers, such as Kakwenza Rukirabashaija, an author known for a book criticizing President Museveni and his family who was arrested in April 2020 on trumped-up charges of defamation and cyber related crimes.⁵⁰ In addition, the communication authorities issued a notice in September 2020 stating that anyone wishing to publish information online must obtain a licence. As well as being a blatant violation of the right to freedom of expression and access to information, with restrictions on

³⁷ Amnesty International, *Lawfare: Repression by Law ahead of Tanzania’s General Elections* (Index: AFR 56/3051/2020), 12 October 2020, [amnesty.org/en/documents/af/56/3051/2020/en/](https://www.amnesty.org/en/documents/af/56/3051/2020/en/); Civicus, “Tanzania: Systematic restrictions on fundamental freedoms in the run-up to national elections”, 22 October 2020, [civicus.org/index.php/media-resources/media-releases/4700-tanzania-systematic-restrictions-on-fundamental-freedoms-in-the-run-up-to-national-elections](https://www.civicus.org/index.php/media-resources/media-releases/4700-tanzania-systematic-restrictions-on-fundamental-freedoms-in-the-run-up-to-national-elections)

³⁸ Mail and Guardian, “SADC’s silence on access to Covid-19 vaccines is too loud”, 11 March 2021, mg.co.za/africa/2021-03-11-sadcs-silence-on-access-to-covid-19-vaccines-is-too-loud/

³⁹ Amnesty International, “Authorities must end crackdown on journalists reporting on COVID-19”, 21 April 2020, [amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/](https://www.amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/)

⁴⁰ Amnesty International, “Authorities must end crackdown on journalists reporting on COVID-19” (previously cited)

⁴¹ Public Notice by Mwananchi Communications Ltd, 20 April 2020, on file with Amnesty International.

⁴² Amnesty International telephone interview with Khalifa Said, 12 September 2020.

⁴³ Tanzania Human Rights Defenders Coalition, “Two Kenyan Journalists convicted and fined in Tanzania, repatriated back to Kenya”, 21 May 2020, thrdc.or.tz/two-kenyan-journalists-convicted-and-fined-in-tanzania-repatriated-back-to-kenya/

⁴⁴ American Bar Association, Center for Human Rights, *Report on the arbitrary suspension of Kwanza Online TV for sharing information related to the COVID-19 pandemic*, October 22, 2020, https://www.americanbar.org/content/dam/aba/administrative/human_rights/justice-defenders/aba-chr-kwanza-tv-tanzania-report.pdf. Kwanza TV, Instagram post, 1 July 2020, [instagram.com/p/CCGT_5ECT_n/?utm_source=ig_web_button_share_sheet](https://www.instagram.com/p/CCGT_5ECT_n/?utm_source=ig_web_button_share_sheet)

⁴⁵ BBC, “Coronavirus in Tanzania: The country that’s rejecting the vaccine”, 6 February 2021, [bbc.co.uk/news/world-africa-55900680](https://www.bbc.co.uk/news/world-africa-55900680)

⁴⁶ BBC, “John Magufuli: Tanzania’s president dies aged 61 after Covid rumours”, 18 March 2021, [bbc.co.uk/news/world-africa-56437852](https://www.bbc.co.uk/news/world-africa-56437852)

⁴⁷ BBC, “John Magufuli: Tanzania arrests over missing president rumours”, 15 March 2021, [bbc.co.uk/news/world-africa-56405313](https://www.bbc.co.uk/news/world-africa-56405313)

⁴⁸ Amnesty International, “Uganda: Authorities must lift social media block amid crackdown ahead of election”, 13 January 2021, [amnesty.org/en/latest/news/2021/01/uganda-authorities-must-lift-social-media-block-amid-crackdown-ahead-of-election/](https://www.amnesty.org/en/latest/news/2021/01/uganda-authorities-must-lift-social-media-block-amid-crackdown-ahead-of-election/)

⁴⁹ Uganda Communications Commission, Twitter post, 22 March 2020, twitter.com/UCC_Official/status/1241725721367756800, Public Advisory Notice on Circulation of Fake Information”

⁵⁰ Amnesty International, “Uganda: Activist arrested for criticising the president: Kakwenza Rukirabashaija”, (Index: AFR 59/2158/2020), 19 April 2020, [amnesty.org/download/Documents/AFR5921582020ENGLISH.pdf](https://www.amnesty.org/download/Documents/AFR5921582020ENGLISH.pdf)

public gatherings already in place since June 2020 due to Covid-19, this measure shut off a vital channel for people to express their political opinions and share critical information about the pandemic.⁵¹

In **Niger**, the Cybercriminality law of 2019 was used to arrest about 10 individuals between March and April 2020 under article 31 which penalizes “the dissemination, production and making available to others data that may disturb public order or violate human dignity through an information system”. This law has been used to muzzle dissenting voices such as that of human rights defender Mahaman Lawali Mahaman Nassourou, the vice-president of the Comité de réflexion et d'orientation indépendante pour la sauvegarde des acquis démocratiques and a member of the Réseau des organisations pour la transparence et l'analyse budgétaire who was detained for a month at the end of April after he shared via WhatsApp a public document critical of measures implemented by the government to contain the spread of the virus.⁵²

In several **Gulf Countries**, specifically **Bahrain, Kuwait, Oman, Saudi Arabia**, and the **United Arab Emirates**, there is a years-old pattern of summoning, interrogating, arresting, prosecuting, and imprisoning those who post online comments that cast the government in a negative light – or that the government perceives as such.⁵³ This has continued over the past year, but now with the frequent invocation of Covid-19 and the protection of public health as a justification. Since March 2020, each of these governments have issued statements warning of criminal liability for publishing “false news” or “spreading misinformation”, and in many instances have prosecuted individuals who posted content on social media about the pandemic or the government’s response. Governments have not demonstrated that the restrictions they imposed on freedom of expression are justified under the narrow exceptions permitted under international human rights law and standards in any of the cases analysed by Amnesty International. Indeed, it appears that investigations, summons, and prosecutions are often being initiated specifically to target online criticism of these governments’ responses to the pandemic, which fall clearly within the right to freedom of expression.

For example, **Bahrain’s** Office of Public Prosecution announced in March 2020 that it “will confront decisively [...] anyone who publishes or participates in the circulation of false news and biased rumors” during the pandemic, since circumstances demand citizens’ “support for the agencies and institutions of the state”. In the same month, the Cyber Crime Directorate within the Ministry of Interior announced that it had 16 employees “working around the clock” to “monitor and track offending [social media] accounts”, reporting that it had recently opened over 60 new investigations and referred over 40 social media users for prosecution for “disturbing public security”. The Ministry invoked Article 168 of the Penal Code as a legal basis for its actions, referring to one of multiple provisions of Bahraini law that criminalize publication of “false news” or other information the government deems untrue. The Ministry made vague connections between the posts and Covid-19, complaining that “despite the current circumstances”, a number of social media users continued to post content the government disapproves of.⁵⁴ This weak attempt by the authorities to justify the restrictions on the need to protect public health – which fails to show that these criminal proceedings were a necessary and proportionate step to achieve a legitimate public health goal – highlights the fact that the policy, like the laws used to enforce it, are part of much longer-term patterns of repression.

2.3 THE PANDEMIC AS JUSTIFICATION TO INTRODUCE NEW MEASURES

The need to contain the spread of Covid-19 and protect the health and lives of their citizens pushed many states to introduce measures which have impacted on human rights, such as temporary restrictions on freedom of movement and the temporary closure of schools and businesses. While many of such measures have been necessary and proportional to deal with the threat of the pandemic and protect public health, many

⁵¹ Amnesty International, “Uganda: Government to license online posts in fresh assault on freedom of expression”, 9 September 2020, [amnesty.org/en/latest/news/2020/09/uganda-government-to-license-online-posts-in-fresh-assault-on-freedom-of-expression](https://www.amnesty.org/en/latest/news/2020/09/uganda-government-to-license-online-posts-in-fresh-assault-on-freedom-of-expression)

⁵² Amnesty International « Niger : La loi sur la cybercriminalité est un instrument de répression des voix dissidentes », 8 May 2020, [amnesty.org/fr/latest/news/2020/05/niger-la-loi-sur-la-cybercriminalite-est-un-instrument-de-repression/](https://www.amnesty.org/fr/latest/news/2020/05/niger-la-loi-sur-la-cybercriminalite-est-un-instrument-de-repression/)

⁵³ Amnesty International, *COVID-19 Is New Pretext for Old Tactics of Repression in GCC* (Index MDE 04/3136/2020) 15 October 2020, [amnesty.org/en/documents/mde04/3136/2020/en/](https://www.amnesty.org/en/documents/mde04/3136/2020/en/)

⁵⁴ Amnesty International, *COVID-19 Is New Pretext for Old Tactics of Repression in GCC* (previously cited).

governments have gone beyond what is permitted under international human rights law and introduced new measures which repress human rights.

The rushed introduction of new bills, laws and emergency measures since early 2020 to address the risks of the pandemic has been a stark reminder of how crises are a fertile ground for new repressive legislation, including to suppress the free flow of information. The explosion of new laws purportedly introduced to stop the spread of “fake news” has been one of the main tools used around the world in the last year that gave officials the power to censor and filter what can be published and what can be shared on social media platforms. Such measures have revealed more about governments’ attempts at controlling public debate and their inability to accept dissent, criticism and oversight than about their intention to protect the health and lives of their population. This represents a huge step back for human rights, both in countries where these measures are based on time-limited, emergency powers, and in those countries that introduced new laws, inflicting long-term damage.

These new laws have led to an unjustified denial of the right to freedom of expression and a reduction of the civic space, with a chilling effect on journalism, public debate, and scrutiny. A UNESCO brief noted that while these laws are usually presented as “cures” to the problem of disinformation, they may actually “harm legitimate reportage, speech and policy debate - which are key to surfacing truth and ensuring that it trumps lies”. UNESCO also warned that such “heavy handed responses to disinformation [...] could actually hobble the work of journalists and others engaged in vital research, investigation and storytelling about the pandemic, and the infodemic that helps fuel it. This work includes verification and debunking efforts that are essential for well-informed policy development, along with the implementation and review processes needed to tackle Covid-19.”⁵⁵

In **Nicaragua**, adding to the violent repression of social protests that started in 2018 and a growing number of laws aimed at severely restricting the space for dissent, independent journalism and civil society, the parliament approved the “Special Law on Cybercrimes” in October 2020. This law includes vague and broad offences to criminalize “fake news” and a range of legitimate activities carried out through communication and information technologies and various forms of online expression.⁵⁶ This law provides a legal framework that can be used to punish those who express opinions which, in the eyes of the authorities, “may cause alarm, fear or anxiety”, under the pretext of avoiding the publication or distribution of what they consider to be false information. In practice, its wording suggests that it is also seeking to punish those who criticize government policies.⁵⁷ The Inter-American Commission on Human Rights noted that, by failing to limit the scope of its application, the law gives the authorities the discretion to criminally sanction freedom of expression.⁵⁸ The law was adopted at a time when the government attempted to downplay and suppress information about the spread of the pandemic and intimidate health workers who dared to criticize the government response.⁵⁹ Leading human rights organization CENIDH expressed concern that the law “doesn’t just repress freedom of expression and the press in Nicaragua, but also imposes surveillance and absolute control on social networks, digital platforms, the online profiles of political activists and human rights defenders, and all those who dare to oppose government policies.”⁶⁰

⁵⁵ UNESCO, *Disinfodemic. Dissecting responses to COVID-19 disinformation*, 2020, en.unesco.org/sites/default/files/disinfodemic_dissecting_responses_covid19_disinformation.pdf

⁵⁶ For a range of concerns with the law, see: Access Now, “Ley Especial de Ciberdelitos en Nicaragua: la opresión se traslada al mundo en línea”, 30 September 2020, accessnow.org/ley-especial-de-ciberdelitos-en-nicaragua-opresion-en-linea/ and Article 19, “Ley Especial de Ciberdelitos en Nicaragua promueve la censura y la criminalización del uso cotidiano de las tecnologías”, 30 September 2020, articulo19.org/ley-especial-de-ciberdelitos-en-nicaragua-promueve-la-censura-y-la-criminalizacion-del-uso-cotidiano-de-las-tecnologias/

⁵⁷ Amnesty International, *Silence at any cost. State tactics to deepen the repression in Nicaragua* (Index: AMR 43/3398/2021), 15 February 2021, amnesty.org/en/documents/amr43/3398/2021/en/

⁵⁸ Inter-American Commission on Human Rights, “IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern about new legal threats to freedom of expression and indirect measures against the media and journalists in Nicaragua”, 7 October 2020, oas.org/en/iachr/expression/showarticle.asp?artID=1187&IID=1

⁵⁹ As noted by OHCHR, “In some cases, authorities publicly blamed those who questioned the State response to the COVID-19 pandemic, stigmatizing them as traitors, terrorists or coup plotters. In a document (libro blanco) released on 25 May 2020, the Government accused the opposition of plotting a coup and waging a massive disinformation campaign in the context of the pandemic. OHCHR registered the dismissal, without respect for the applicable legal procedures, of at least 16 medical doctors (8 men and 8 women) who had criticized the State response to the COVID-19 pandemic”, OHCHR, *Situation of human rights in Nicaragua. Report of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/46/21, 19 February 2021.

⁶⁰ CENIDH, Twitter post, 20 December 2020, twitter.com/cenidh/status/1344053166506201088/photo/1

Anti-“fake news” legislation already existed in **Russia** before the pandemic, but on 31 March 2020 the Russian authorities expanded the existing legislation and introduced amendments to the Criminal Code and to the Code of Administrative Offences that introduced criminal penalties for “public dissemination of knowingly false information” in the context of emergencies, and administrative penalties for media outlets that publish such information.⁶¹ The legislative changes also expanded criminal sanctions for violating sanitary and epidemiological regulations. The two laws were passed by the State Duma and Council of Federation and signed by President Putin with extraordinary speed, going through the whole legislative process on the same day and with nearly no public discussion. Although the amendments are officially described as part of the authorities’ response to the Covid-19 pandemic, the new laws do not restrict the provisions to the current situation but rather will be applicable to any situation broadly defined as “emergency”, and will remain in force beyond the pandemic. The language in the laws is very vague and broad, which leaves the new legal provisions open to wide interpretation and abuse. Similar to other laws restricting public debate in Russia, the new laws are likely to further curtail the right to freedom of expression and silence criticism of the authorities. Soon after their adoption, the laws started to be used against activists and health workers who dared to criticise the government response to Covid-19.⁶²

In March 2020, the Philippines enacted the Bayanihan to Heal as One Act, which granted **Philippine** President Rodrigo Duterte special powers to address the pandemic and included a provision that punishes “creating, perpetuating or spreading false information” with up to two months in prison, up to P1 million in fines (approximately 19,860 USD), or both. The National Bureau of Investigation summoned individuals suspected of spreading fake news related to Covid-19, but human rights groups said these included those who were merely airing their grievances online.⁶³ A Cebu City-based artist was also arrested without warrant in April 2020 over a Facebook post that claimed that 9,000 people in her city had the virus, which police considered as “fake news”. She was detained for three days, but the charges against her were eventually dismissed after a court ruled that her post was a “satire” which is “constitutionally protected speech”.⁶⁴

To respond to the pandemic, **Cambodia** introduced the State of Emergency Law in April 2020, which enables open-ended emergency powers and martial law.⁶⁵ Amongst other measures, the law includes provisions for conducting surveillance on telecommunications “using any means necessary”, and the power to ban or restrict the “distribution of information that could scare the public, cause unrest, or that can negatively impact national security, or that can cause confusion in response to the state of emergency”. Other powers include restrictions on freedom of movement and peaceful assembly, the seizure of private property, and the power to enforce quarantines, and prison sentences of up to 10 years for disobeying or obstructing emergency measures. Instead of relaxing these measures over time, in March 2021, Cambodia introduced another problematic law in response to the pandemic. The Law on Measures to Prevent the Spread of COVID-19 and other Serious, Dangerous and Contagious Diseases (COVID-19 Law) provides for a range of excessive and disproportionate penalties for individuals who break Covid-19 restrictions.⁶⁶ In addition, in May 2021, the Cambodian authorities placed a de facto ban on independent reporting in Phnom Penh’s red zones — areas deemed to be high risk for Covid-19 transmission — and the Ministry of Information announced that only state media or journalists invited by the government would be permitted to report from red zones. The Ministry warned journalists not to disseminate information that could “provoke turmoil in society” and threatening legal action against those who disobey. This followed viral livestream footage from multiple Facebook news outlets of long queues of Covid-19 patients outside government treatment centres. The government’s campaign to silence critical commentary

⁶¹ Amnesty International, *Russian Federation: “Fake news” bill prompted by COVID-19 threatens freedom of expression* (Index: EUR 46/2093/2020), 2 April 2020, [amnesty.org/en/documents/eur46/2093/2020/en/](https://www.amnesty.org/en/documents/eur46/2093/2020/en/)

⁶² Amnesty International, *Report 2020/2021: the state of the world’s human rights*, (previously cited), p. 302, 304; Amnesty International, “Amnesty International demands termination of fake news case against doctor Yulia Volkova”, 8 May 2020, eurasia.amnesty.org/2020/05/08/amnesty-international-trebuat-prekrashheniya-dela-o-fake-news-v-otnoshenii-vracha-yulii-volkovoi/; Amnesty International, “Russia: Authorities detain doctor who exposed flaws in COVID-19 response”, 3 April 2020, [amnesty.org/en/latest/news/2020/04/russia-authorities-detain-doctor-who-exposed-flaws-in-covid19-response/](https://www.amnesty.org/en/latest/news/2020/04/russia-authorities-detain-doctor-who-exposed-flaws-in-covid19-response/)

⁶³ Amnesty International, “Philippines: Major TV network threatened by authorities must be allowed to air”, 5 May 2020, [amnesty.org/en/latest/news/2020/05/philippines-major-tv-network-threatened-allowed-to-air/](https://www.amnesty.org/en/latest/news/2020/05/philippines-major-tv-network-threatened-allowed-to-air/)

⁶⁴ Inquirer, “Poet posts bail for COVID-19 ‘fake news’ case”, 21 April 2020, newsinfo.inquirer.net/1262341/poet-posts-bail-for-covid-19-fake-news-case

⁶⁵ Amnesty International, “Cambodia: Proposed emergency powers would obliterate human rights”, 2 April 2020, [amnesty.org/en/latest/news/2020/04/cambodia-proposed-emergency-power-obliterate-human-rights/](https://www.amnesty.org/en/latest/news/2020/04/cambodia-proposed-emergency-power-obliterate-human-rights/)

⁶⁶ Amnesty International, “Cambodia: Authorities must avert COVID-19 humanitarian crisis”, 30 April 2021, [amnesty.org/en/latest/news/2021/04/cambodia-humanitarian-crisis-covid/](https://www.amnesty.org/en/latest/news/2021/04/cambodia-humanitarian-crisis-covid/)

has extended beyond journalists to ordinary people. In a press release dated 1 May 2021, the government demanded the immediate cessation of social media posts intended to “provoke and create chaos” in the context of the pandemic, referring to such posts as “acts of attack” that must be punished. The Cambodian authorities arrested dozens of individuals for expressing critical opinions about the government’s Covid-19 response, including at least six individuals for their criticism of the government’s vaccination campaign.⁶⁷

In January 2021, the government of **Malaysia** declared a state of emergency citing the need to control increasing cases of Covid-19. This measure has led to a bar on any elections and allows the current government to pass laws without parliamentary scrutiny. In March 2021, the government used its state of emergency powers to introduce a ‘fake news’ law which criminalizes the dissemination of false information with fines and up to three years’ imprisonment, without parliamentary approval.⁶⁸ The state of emergency was lifted on 1 August 2021, yet a strict ban on assemblies and gatherings remains in place as part of restrictions imposed to curb the spread of Covid-19, and the repression of freedom of expression online and offline continues. For example, dozens of people participating in a peaceful demonstration in July 2021 were questioned by police, including journalists and organizers, and members of the National Human Rights Commission. Others who have expressed views critical of the government or were linked to the July demonstration were also questioned by police.⁶⁹

In March 2020, the **South African** government declared a National State of Disaster and enacted a series of restrictions and regulations that included lockdowns and other public health measures. The regulation included the criminalization of disinformation related to Covid-19 or the government’s response to the pandemic with fines and imprisonment.⁷⁰ Six months later, the government eased most of the emergency measures, but penalties criminalizing misinformation were retained. These regulations were compounded by ministerial directives⁷¹ requiring communication service providers, media outlets and social media companies to remove “fake news” from their platforms. This led to several arrests and fines against broadcasters.⁷²

Very similar language and penalties are used in **Botswana’s** Emergency Powers Act adopted in April 2020 to criminalize misinformation but also anyone who “relays any information to the public about Covid-19 from a source other than the Director of Health Services and the WHO”⁷³ making it impossible to challenge the government’s portrayal of the pandemic and their response to it. This led to a number of arrests of people criticising the measures, including of opposition politicians who posted information about Covid-19 on Facebook.⁷⁴

In some cases, thanks to push backs from civil society, some restrictions have been dropped or put on hold to allow for further reflection and discussion on the flaws of proposed legislation and other measures.

In March 2020, as part of a package of Covid-19 emergency measures, the **Serbian** government decided to centralize all information about the pandemic and made journalists liable for prosecution if they used information that was not government sanctioned or taken from “unofficial sources”.⁷⁵ As a result, journalists were prevented from attending press conferences, obtaining information from health authorities or documenting the operations of law enforcement officials. At least one journalist was arrested for reporting on the situation at a hospital in April, though she was later released and the charges dropped.⁷⁶ Following widespread criticism at national and international level, the measure was eventually withdrawn. However, one

⁶⁷ Amnesty International, *Cambodia: Stop silencing critical commentary on COVID-19: Joint statement* (Index: ASA 23/4183/2021), 25 May 2021, [amnesty.org/en/documents/asa23/4183/2021/en/](https://www.amnesty.org/en/documents/asa23/4183/2021/en/)

⁶⁸ Forum Asia, *Repressive laws summary, Jan-Mar 2021*, 2021 (previously cited)

⁶⁹ Amnesty International, “Malaysia: PM’s resignation must restore respect for freedom of expression and assembly”, 17 August 2021 [amnesty.org/en/latest/news/2021/08/malaysia-pm-resignation-restore-respect-freedom-expression/](https://www.amnesty.org/en/latest/news/2021/08/malaysia-pm-resignation-restore-respect-freedom-expression/)

⁷⁰ South Africa, Regulations issued in terms of section 27(2) of the Disaster Management Act, 2020, 18 March 2020, 11(5), [gov.za/sites/default/files/gcis_document/202003/regulations.pdf](https://www.gov.za/sites/default/files/gcis_document/202003/regulations.pdf)

⁷¹ South Africa, Electronic Communications, Postal and Broadcasting Directions Issued under Regulation 10(8) of the Disaster Management Act, 2002, 5(1.3), [gov.za/sites/default/files/gcis_document/202003/43164gon-417.pdf](https://www.gov.za/sites/default/files/gcis_document/202003/43164gon-417.pdf)

⁷² CIPESA, “Regulating Freedom of Expression Amidst the Covid-19 Response in South Africa”, 25 November 2020, cipesa.org/2020/11/regulating-freedom-of-expression-amidst-the-covid-19-response-in-south-africa/

⁷³ Botswana, Emergency Powers (Covid-19) Regulations 2020, 2 April 2020, 31(3), covidlawlab.org/wp-content/uploads/2020/06/Emergency-Powers-COVID-19-Regulations-2020.pdf

⁷⁴ Mail and Guardian, Censorship, “The unexpected side-effect of Covid-19”, 11 May 2020, mg.co.za/africa/2020-05-11-censorship-the-unexpected-side-effect-of-covid-19/

⁷⁵ European Journalism Observatory, “Serbia: Coronavirus and the media”, 13 May 2020, en.ejo.ch/media-politics/serbia-coronavirus-and-the-media; International Press Institute, “European media freedom suffers under COVID-19 response”, 10 April 2020, ipi.media/european-media-freedom-suffers-covid-19-response/

⁷⁶ Article 19, “Serbia: Journalist Ana Lalic arrested for reporting on inadequate hospital facilities for coronavirus”, 2 April 2020, article19.org/resources/serbia-journalist-ana-lalic-arrested-for-reporting-on-inadequate-hospital-facilities-for-coronavirus/

civil society organization expressed concern that the public continues to be insufficiently informed and that government officials and the media are failing to cooperate effectively, contributing to the spread of disinformation.⁷⁷

In June 2020, **Brazil**'s Senate approved the Internet Freedom, Responsibility, and Transparency Bill, popularly known as the "fake news" bill, which aims to prevent the dissemination of disinformation on social media platforms and messaging apps – it is currently pending approval with the Chamber of Deputies. Civil society organizations have expressed their concern that the law is poorly drafted and insufficiently consulted.⁷⁸ Although the bill was introduced in the spirit of reducing damaging disinformation which has been rife in Brazil in recent years, if passed, the law could inflict more harm on the rights to freedom of expression and to privacy and may exclude millions of Brazilians from accessing services online, without necessarily solve the problem it is trying to address. For example, the bill contains an ambiguous definition of what is considered "fake news" and would introduce arbitrariness over what information is considered false or harmful that could easily be weaponized by officials against information uncomfortable to them. Amnesty International and other organizations have raised concern that rather than fighting disinformation and propaganda by fostering a diverse and independent communications environment, the bill would stimulate a concentrated digital environment by imposing tailored burdensome obligations on internet application providers, encourage censorship, and have a chilling effect on online expression through surveillance and the wider criminalization of discourse.⁷⁹

Although numerous individuals in **Morocco/Western Sahara** have been for many years arrested and prosecuted solely for freely expressing their views online, the context of the pandemic gave new impetus to the authorities' crackdown. In March 2020, Parliament passed a new law declaring a health emergency and setting penalties of up to three months in prison and a which set penalties of a three-month prison sentence and a fine of MAD1,300 (around US\$146) for anyone breaching "orders and decisions taken by public authorities" and for anyone "obstructing" those decision through "writings, publications or photos".⁸⁰ According to an official statement issued in May 2020, in the two months following the adoption of the new law, the authorities prosecuted 91,623 people for breaking the new state of health emergency law and other crimes. Amnesty International documented the cases of five human rights activists and citizen journalists arrested between April and May 2020 for online and social media posts criticizing the way local authorities handled the distribution of aid amid Covid-19.⁸¹ All of them were charged under the health emergency law as well as for "offending public institutions" under the Penal Code. Some of them were also charged with "spreading false information". None of the posts presented as evidence against these activists contained anything suggesting they were inciting violence, hatred or discrimination that could have justified the restrictions. The posts simply contained concerns about the lack of access to services, cronyism, and human rights violations during the pandemic. Also in March 2020, the government adopted Draft law 22.20 which provides that spreading "fake news" would be punishable by prison sentences of up to five years when the purpose is to harm "national security". Following widespread opposition to this "fake news" law, in May 2020, the government announced the suspension of law No. 22.20 and announced it would review it.⁸²

⁷⁷ Civic Initiatives, *State of civil society in Serbia*, 2020, gradjanske.org/wp-content/uploads/2020/04/State-of-Civil-Society-in-Serbia-Potential-COVID-impact.pdf

⁷⁸ Freedom House, Amnesty International Brazil, and others, "Brazil: Disinformation Bill Threatens Freedom of Expression and Privacy Online", 29 June 2020; freedomhouse.org/article/brazil-disinformation-bill-threatens-freedom-expression-and-privacy-online

⁷⁹ Global Americans, "Brazil, democracy, and the 'fake news' bill", 4 January 2021, theglobalamericans.org/2021/01/brazil-democracy-and-the-fake-news-bill/

⁸⁰ Amnesty International, "Morocco and Western Sahara: End prosecution of activists under new health emergency law", 9 June 2020, amnesty.org/en/latest/news/2020/06/morocco-and-western-sahara-end-prosecution-of-activists-under-new-health-emergency-law/

⁸¹ Amnesty International, "Morocco and Western Sahara: End prosecution of activists under new health emergency law" (previously cited)

⁸² Amnesty International, "In a post-COVID-19 world, 'fake news' laws, a new blow to freedom of expression in Algeria and Morocco/Western Sahara?", 29 May 2020, amnesty.org/en/latest/news/2020/05/in-a-post-covid19-world-fake-news-laws-a-new-blow-to-freedom-of-expression-in-algeria-and-morocco-western-sahara/

2.4 SHUTTING DOWN CHANNELS OF COMMUNICATION

Interfering with channels of communication, such as the internet media outlets and social media platforms, poses a direct threat not only to the right to freedom of expression but to the right to health as well, as the public will not be able to access vital health information during the pandemic.

Freedom of information laws, access to internet, and a free and independent media are not luxuries that can be dispensed with during a time of crisis. On the contrary, the Covid-19 pandemic has proved how important they are for disseminating measures on how to be protected from the disease, what to do in case of emergency, and to get the most up-to-date information about the current situation. Open channels of communication are also crucial for civil society organizations, the media and others working to hold governments to account and fill the gaps in their response, including regarding the ongoing challenge against misinformation and the exclusion of marginalized communities.⁸³

In today's world, the internet plays a crucial role in the dissemination of information and has the potential to reach more people than ever. Under international human rights law, states have an obligation to promote universal access to the internet.⁸⁴ The internet provides individuals with the means of communicating, disseminating, receiving and seeking information and ideas instantaneously, on a global scale, and at a relatively low cost.⁸⁵ Access to the internet is also a necessary precondition for a range of other human rights, including the right to health, to education, and to work, since much of the exchange of information, social interaction, and access to services now happens online. Cutting off access to the internet, or parts of the internet, is a violation of the right to freedom of expression and can never be a justified restriction.⁸⁶

Despite this, many states have resorted in recent years to completely switching off or slowing down the internet or otherwise hindering access to some websites in an attempt to control or stop communications, or as a way to punish entire regions or sectors of the population. Even amid the pandemic, Access Now, an organization working to protect digital rights, has documented at least 155 internet shutdowns and related restrictions in 29 countries over the course of 2020 including in **Bangladesh, Myanmar, Ethiopia, Yemen, Belarus, Tanzania, Cameroon, Chad, Gambia, and Togo.**⁸⁷

Perhaps one of the most egregious cases of internet shutdowns has been the disruption to internet speed in the Jammu and Kashmir region of **India**, where access to internet has been restricted since August 2019, seriously disrupting all aspects of everyday life and the economy in the region.⁸⁸ Even as the pandemic spread through the region in early 2020, the authorities maintained limitations on full internet services such as restricting speed to 2G in the region. Complete internet shutdowns have also been imposed intermittently in certain areas. In **Uganda**, the authorities have resorted to restricting access to social media in the run up to the January 2021 elections in a bid to silence the few accredited election observers, opposition politicians, human rights defenders, political activists, journalists and bloggers who were monitoring the elections.⁸⁹ In **Chad**, over the past five years, authorities have deliberately restricted the internet during mobilisations organized by dissenting voices, and during politically sensitive moments. In 2020 alone, the country experienced 192 days of internet disruptions.⁹⁰ This has affected not only the right to freedom of expression and the work of human rights activists, but also the ability to access health information and the economy as many Chadians use the internet for online sales.

⁸³ Inés Pousadela, "Access to Information During a Pandemic – A Matter of Life or Death", 25 September 2020, justsecurity.org/72557/access-to-information-during-a-pandemic-a-matter-of-life-or-death/

⁸⁴ The Human Rights Council has issued a series of resolutions on the right to internet access, the latest in July 2021, UNHRC, The Promotion, Protection and Enjoyment of Human Rights on the Internet, 7 July 2021, UN Doc. A/HRC/47/L.22. See also International Mechanisms for Promoting Freedom of Expression, "Joint Declaration on Freedom of Expression and the Internet", 2011, oas.org/en/iachr/expression/showarticle.asp?artID=849&IID=1

⁸⁵ Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, 16 May 2011, UN Doc. A/HRC/17/27

⁸⁶ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 43. Also: Report of UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, 16 May 2011, UN Doc. A/HRC/17/27, para. 30

⁸⁷ Access Now, *Shattered dreams and lost opportunities*, March 2021, accessnow.org/cms/assets/uploads/2021/03/KeepItOn-report-on-the-2020-data_Mar-2021_3.pdf

⁸⁸ Amnesty International, "Mitigate risks of Covid-19 for Jammu and Kashmir by immediately restoring full access to internet services", 19 March 2020, [amnesty.org/en/latest/news/2020/03/mitigate-risks-of-covid-19-for-jammu-and-kashmir-by-immediately-restoring-full-access-to-internet-services/](https://www.amnesty.org/en/latest/news/2020/03/mitigate-risks-of-covid-19-for-jammu-and-kashmir-by-immediately-restoring-full-access-to-internet-services/)

⁸⁹ Amnesty International, "Uganda: Authorities must lift social media block amid crackdown ahead of election", 13 January 2021, [amnesty.org/en/latest/news/2021/01/uganda-authorities-must-lift-social-media-block-amid-crackdown-ahead-of-election/](https://www.amnesty.org/en/latest/news/2021/01/uganda-authorities-must-lift-social-media-block-amid-crackdown-ahead-of-election/)

⁹⁰ Amnesty International, "Chad: Internet shutdowns impeding freedom of expression", 9 April 2021, [amnesty.org/en/latest/news/2021/04/tchad-les-coupures-internet-une-entrave-la-liberte-dexpression/](https://www.amnesty.org/en/latest/news/2021/04/tchad-les-coupures-internet-une-entrave-la-liberte-dexpression/)

Civil society organizations have evidenced how amongst the most affected are those who rely on the internet to protect their physical safety, access sexual and reproductive health information and care, and participate in social, professional, and economic life, including refugees and migrants, women, LGBTI individuals, and people with disabilities.⁹¹ For example, the Rohingya people have been deeply affected by internet shutdowns and restrictions both within **Myanmar** and in refugee camps in **Bangladesh**, impeding the delivery of critical humanitarian aid and access to crucial information about the conflict and the COVID-19 pandemic.⁹²

More broadly, the use of internet shutdowns and slowdowns in **Myanmar** has at times affected the timely spread of information related to the Covid-19 pandemic.⁹³ In the wake of the 1 February 2021 coup, the military authorities have sought to clamp down on freedom of expression by jailing activists, journalists and human rights defenders, as well as moving towards increased censorship of the internet and criminalizing the use of circumvention measures such as VPNs.⁹⁴ In a matter of weeks the authorities revoked the licenses of several news media outlets,⁹⁵ and many journalists fled the country, took refuge in territory controlled by the Ethnic Armed Organizations or remain in hiding while working covertly at enormous personal risk.

During the pandemic, many governments have also directly attacked media outlets in an equally disturbing attempt to limit media plurality and control the narrative. In the **Philippines**, the National Telecommunications Commission issued a cease-and-desist order in May 2020, effectively stopping the operations of ABS-CBN, one of the country's largest broadcast media companies which was one of the limited sources of independent information on the pandemic.⁹⁶ In **Zambia**, the 'cancellation' by the Independent Broadcasting Authority (IBA) of the broadcasting license of independent television news channel Prime TV, was a ploy to muzzle and weaken independent media and silence any voice perceived to be critical of the authorities.⁹⁷ In **Egypt**, the authorities blocked several news outlets in March and April 2020, accusing them of spreading false information. For example, the outlet Darb, run by the opposition Socialist Popular Movement Party, was blocked only a month after its launch. The decision of the authorities to block the outlet happened after it covered calls by activists and relatives of detainees to release political prisoners and prisoners of conscience amid fears over the spread of Covid-19 in Egypt's prisons.⁹⁸ The practice of censoring and blocking hundreds of websites, including news outlets, without judicial orders, predates the pandemic and is part of a long-documented pattern in Egypt.⁹⁹

Many countries also interfered with the right to access to information by amending freedom of information laws or suspending the obligations of public entities to allow the public to access information in their power. Several **European** countries, including **Spain**, cited the pandemic when they relaxed or suspend deadlines for responding to freedom of information requests through a state of emergency that suspended deadlines for procedures of public sector entities.¹⁰⁰ In **Brazil**, Provisional Measure 928¹⁰¹ temporarily suspended deadlines for responding to freedom of information requests under Brazil's Right to Information Law, forbidding journalists or others from appealing denied requests.¹⁰²

At the same time, several countries failed to or refused to publish Covid-19 statistical data, citing concerns about reputation, capacity, security, and public order. For example, the government of **Equatorial Guinea** stopped publishing the numbers of new infections in May 2020, arguing that the information had been used by its critics to discredit its public health work. Later that month, the Ministry of Foreign Affairs asked the

⁹¹ Human Rights Watch, "End Internet Shutdowns to Manage COVID-19", 31 March 2020, [hrw.org/news/2020/03/31/end-internet-shutdowns-manage-covid-19](https://www.hrw.org/news/2020/03/31/end-internet-shutdowns-manage-covid-19)

⁹² Amnesty International, "Rohingya refugees need protection of their rights now more than ever", 21 June 2020 and www.amnesty.org/en/latest/news/2020/06/protecting-rights-of-rohingyas-need-international-cooperation/ and *Let us speak for our rights: Human rights situation of Rohingya refugees in Bangladesh* (Index ASA 13/2884/2020), 14 September 2020 [amnesty.org/en/documents/asa13/2884/2020/en/](https://www.amnesty.org/en/documents/asa13/2884/2020/en/)

⁹³ Amnesty International, "Myanmar: Villages burned, civilians injured and killed as Rakhine State conflict escalates", 12 October 2020, [amnesty.org/en/latest/news/2020/10/myanmar-villages-burned-civilians-injured-rakhine-state-conflict/](https://www.amnesty.org/en/latest/news/2020/10/myanmar-villages-burned-civilians-injured-rakhine-state-conflict/)

⁹⁴ Amnesty International, "Myanmar: Cease persecution of journalists", 27 May 2021, [amnesty.org/en/latest/news/2021/05/myanmar-cease-persecution-journalists/](https://www.amnesty.org/en/latest/news/2021/05/myanmar-cease-persecution-journalists/)

⁹⁵ Amnesty International, "Myanmar: Democratic Voice of Burma journalist jailed", 12 May 2021, [amnesty.org/en/latest/news/2021/05/myanmar-democratic-voice-of-burma-journalist-jailed/](https://www.amnesty.org/en/latest/news/2021/05/myanmar-democratic-voice-of-burma-journalist-jailed/)

⁹⁶ Amnesty International, "Philippines: Major TV network threatened by authorities must be allowed to air", 5 May 2020, [amnesty.org/en/latest/news/2020/05/philippines-major-tv-network-threatened-allowed-to-air/](https://www.amnesty.org/en/latest/news/2020/05/philippines-major-tv-network-threatened-allowed-to-air/)

⁹⁷ Amnesty International, *Zambia: Authorities must immediately reinstate broadcasting license of Prime TV and stop targeting the station* (Index: AFR 63/2140/2020), 13 April 2020, [amnesty.org/en/documents/af63/2140/2020/en/](https://www.amnesty.org/en/documents/af63/2140/2020/en/)

⁹⁸ Amnesty International, *Egypt: Prisons are now journalists' newsrooms* (Index: MDE 12/2240/2020) 3 May 2020, [amnesty.org/en/documents/mde12/2240/2020/en/](https://www.amnesty.org/en/documents/mde12/2240/2020/en/)

⁹⁹ See for example, Amnesty International, "Dozens of news sites blocked as Egypt ramps up digital censorship", 13 June 2017, [amnesty.org/en/latest/news/2017/06/dozens-of-news-sites-blocked-as-egypt-ramps-up-digital-censorship/](https://www.amnesty.org/en/latest/news/2017/06/dozens-of-news-sites-blocked-as-egypt-ramps-up-digital-censorship/)

¹⁰⁰ European Federation of Journalists, "Covid-19-impact on access to information in CoE countries", 19 June 2020, europeanjournalists.org/blog/2020/06/19/covid-19-impact-on-access-to-information-in-coe-countries/

¹⁰¹ Brazil, Medida Provisória nº 928, 23 March 2020, planalto.gov.br/ccivil_03/ato2019-2022/2020/MPv/MPv928.htm

The Provisional Measure 928 expired on 20 July 2020.

¹⁰² Organized Crime and Corruption Reporting Project, "Suppression of Press Freedom Accompanies COVID-19 Worldwide", 30 March 2020, occrp.org/en/daily/11954-suppression-of-press-freedom-accompanies-covid-19-worldwide

World Health Organization to withdraw its representative and make sure she left the capital, Malabo, immediately after the government accused her of “falsifying the data” on Covid-19 infections.¹⁰³

In **Indonesia**, following the government’s confirmation of the first two Covid-19 cases in the country in March 2020, the Health Ministry decided against disclosing important data on Covid-19 transmission chains, such as contact tracing and the travel history of suspected cases, claiming that doing so was likely to create widespread panic and impact on law and order. In April 2020, the spokesperson for Indonesia’s National Disaster Mitigation Agency stated that it was unable to provide accurate data as the Health Ministry’s statistics did not match the figures as reported by provincial administrations and that the Ministry’s data was incomplete. The government was not transparent in releasing data relating to the number of health workers that contracted Covid-19 and where they worked. The Indonesian Medical Association criticized the government and requested that data regarding Covid-19 patients be made available to the relevant medical authorities in order to facilitate contact tracing and treatment.¹⁰⁴

In **China**, government censorship obstructed the flow of vital information during the earliest weeks of the Covid-19 outbreak in Wuhan. Although health professionals raised alarm about the virus already in late December 2019, the government prevented professional and citizen journalists, as well as health workers, from reporting on the outbreak. Local authorities later admitted that they had withheld information, thus impeding the public’s timely access to necessary information about the virus.¹⁰⁵

¹⁰³ Amnesty International, *Report 2020/2021: the state of the world’s human rights*, (previously cited) p.153

¹⁰⁴ Amnesty International, *Report 2020/2021: the state of the world’s human rights*, (previously cited) p.187

¹⁰⁵ Amnesty International, *Report 2020/2021: the state of the world’s human rights*, (previously cited) p.121

3. TARGET ONE INTIMIDATE A THOUSAND?

The pandemic has provided governments across the world with another excuse to suppress critical voices, showing their inability to accept criticism, scrutiny, and differing opinions. In many cases, this has created a climate of fear and intimidation that exacerbated the sense of widespread uncertainty and fragility created by the pandemic.

In many countries, the pandemic opened new opportunities for governments to increase the censorship, harassment, and criminalization of media workers, political activists, trade unionists, satirical artists, medical professionals, whistle-blowers and human right defenders who expressed critical opinions of their governments' response to this specific crisis. The pandemic accelerated a long-standing process in which the civic space was already shrinking, with increasing hostility against those who defend human rights.¹⁰⁶ At a time when it is absolutely vital to maintain a free flow of information and encourage active civil society participation in collective efforts against a public health threat, many individuals and groups who stood up to address the multiple challenges posed by Covid-19 have been directly targeted for raising their voices, and countless more have been intimidated and discouraged from speaking up and sharing solutions and ideas.

In **China**, numerous independent journalists, activists and health workers have been harassed by the authorities for sharing information about Covid-19 on social media. These include outspoken lawyer and citizen journalist Chen Qiushi, who reported being harassed by the authorities after posting footage from hospitals in Wuhan, and Wuhan resident Fang Bin, who was briefly taken away by the authorities in February 2020 after posting a video purporting to show corpses of people who died of Covid-19. In many cases, the authorities have used the crime of “picking quarrels and provoking trouble” under Article 293 of the Chinese Criminal Law to silence those who have spoken out during the crisis. The offence is broadly defined and vaguely worded and has increasingly been used to target activists and human rights defenders, including those who have tried to report on the Covid-19 pandemic.¹⁰⁷ For example, citizen journalist Zhang Zhan travelled to Wuhan in February 2020 to report on the Covid-19 outbreak there. She reported on the detention of independent reporters, as well as the harassment of family members whose relatives were ill. Zhang Zhan went missing in May 2020 in Wuhan and was subsequently revealed to have been detained by police in Shanghai, more than 640km away. She was indicted on charges of “picking quarrels and provoking trouble” and sentenced in December 2020 to four years' imprisonment solely for her reporting. There have been reports that she was shackled 24 hours a day for more than three months, tortured and forcibly fed by officials after she began a hunger strike to protest against her detention.¹⁰⁸

Chen Mei, a human rights defender, has been jailed since April 2020 and is also being prosecuted for “picking quarrels and provoking trouble” simply for his involvement in Terminus2049, an online project working to

¹⁰⁶ Amnesty International, *Laws designed to silence: the global crackdown on civil society organizations*, 21 February 2019, [amnesty.org/en/documents/act30/9647/2019/en/](https://www.amnesty.org/en/documents/act30/9647/2019/en/); CIVICUS, *People power under attack 2020: a report based on data from the Civicus Monitor*, findings2020.monitor.civicus.org/ (accessed on 19 September 2021)

¹⁰⁷ Amnesty International, *Report 2020/2021: the state of the world's human rights*, (previously cited) p.122

¹⁰⁸ Amnesty International, *China: Covid-19 journalist tortured for exposing truth: Zhang Zhan* (Index: ASA 17/3447/2020), 10 December 2020, www.amnesty.org/download/Documents/ASA1734472020ENGLISH.pdf

archive articles that have been removed from mainstream media outlets and social media by state censorship, including many related to Covid-19.¹⁰⁹

In **Egypt**, independent journalists, human rights defenders, health care workers, and anyone who is critical of the government on a wide variety of issues, including the human rights situation and the response to the pandemic, risks prosecution and arbitrary arrest. The crackdown on media outlets and on journalists who dare to deviate from the official narrative has been going on for several years, and now it also represents a major obstacle for the public to access independent information in relation to the pandemic and the government's response to it.¹¹⁰ In March 2020, in an attempt to control the narrative around the pandemic, Egypt's public prosecutor warned that those spreading "false news" related to Covid-19 could face up to five years imprisonment or a fine of up to EGP20,000 (nearly 1,200 USD). The authorities wasted no time in enforcing the public prosecutor's threats arresting health workers, activists and a journalist who questioned the government's official statistics in relation to the spread of Covid-19 on his Facebook page.¹¹¹

The Egyptian authorities have also used overly broad charges of "spreading false news" and "terrorism" to arbitrarily arrest and detain health care workers who speak out on issues such as unsafe working conditions and insufficient infection control training and testing for healthcare workers, and have subjected them to threats, harassment and punitive administrative measures.¹¹² Amnesty International documented the cases of nine health care workers, including seven doctors and two pharmacists, who were arbitrarily detained between March and June 2020 by the National Security Agency for expressing their health-related concerns including in social media posts. In June 2020, security forces in Egypt barred members of the Doctors' Syndicate from organizing a press conference to respond to the Prime Minister, who publicly held doctors responsible for the increasing Covid-19 death toll in the country.¹¹³

Relatives of detainees and other actual or perceived critics have also been the target of the authorities. While they have been repressed for years, the crackdown has expanded during the pandemic against anyone raising concerns about it. For example, Sanaa Seif, a film editor, was convicted in March 2021 on charges of spreading "false news", "misusing social media" and insulting a police officer on duty and sentenced to one and a half years in prison. The prosecution stemmed from Sanaa Seif's concern for the life and wellbeing of her arbitrarily detained brother Alaa Abdelfattah and other detainees crammed into Egypt's notoriously overcrowded and dirty prisons amid the spread of Covid-19.¹¹⁴ In June 2021, Ahmed Samir Santawy, a researcher and master's student, was sentenced to four years in prison after being convicted for publishing "false news" after an unfair trial by the Misdemeanours Emergency State Security Court, a special court that operates when a state of emergency is in force and whose verdicts cannot be appealed. His conviction is in relation to social media posts criticizing human rights violations in Egyptian prisons and the state's mishandling of the pandemic, posts which Ahmed has denied writing.¹¹⁵

As Covid-19 broke out in **Madagascar**, the authorities took drastic measures to control information shared by the media and other individuals. Early on in the pandemic, the government attempted to silence those who dared to criticise the management of the pandemic, including by misusing vague laws criminalizing "dissemination of false information", "incitement to disturb public order" and "incitement to hatred against the government" to punish health professionals, journalists and other individuals who shared information or dared to ask questions about the government's response. The government invoked Law 91-011 of 1991 – which was intended to be applied only in exceptional circumstances – permitting the media to share only official government information and prohibiting radio stations from broadcasting phone-in shows. When the first case

¹⁰⁹ Amnesty International, *China: Covid-19 activist faces five years in prison: Chen Mei*, 17 September 2020, [amnesty.org/en/documents/asa17/3080/2020/en/](https://www.amnesty.org/en/documents/asa17/3080/2020/en/)

¹¹⁰ Since 2016 the authorities have subjected dozens of journalists and other media workers to arbitrary arrest and detention, prosecutions on trumped-up "terrorism"-related charges and dismissals simply for expressing critical views. Security forces have raided the few remaining independent online media platforms in Egypt and blocked hundreds of websites. The adoption of draconian media and cyber legislation in 2018 further granted the authorities overly broad powers to regulate media content, restrict journalists' freedom of expression and impose prison terms for criticism expressed online, see Amnesty International, *Egypt: Prisons are now journalists' newsrooms* (Index: MDE 12/2240/2020) (previously cited)

¹¹¹ Amnesty International, *Egypt: Prisons are now journalists' newsrooms* (Index: MDE 12/2240/2020) (previously cited)

¹¹² Amnesty International, "Egypt: Health care workers forced to make impossible choice between 'death or jail'", 18 June 2020, [amnesty.org/en/latest/news/2020/06/egypt-health-care-workers-forced-to-make-impossible-choice-between-death-or-jail/](https://www.amnesty.org/en/latest/news/2020/06/egypt-health-care-workers-forced-to-make-impossible-choice-between-death-or-jail/)

¹¹³ Amnesty International, *Exposed, silenced, attacked: failures to protect health and essential workers during the COVID-19 pandemic* (POL 40/2572/2020), 12 July 2020, [amnesty.org/en/documents/pol40/2572/2020/en/](https://www.amnesty.org/en/documents/pol40/2572/2020/en/)

The crackdown against healthcare workers is not new to Covid-19, but it has intensified since the pandemic began. In September 2019, five doctors were arrested for launching the "Egypt's doctors are angry" campaign which called for reforming the healthcare system, see Amnesty International, "Egypt: Health care workers forced to make impossible choice between 'death or jail'" (previously cited).

¹¹⁴ Amnesty International, *Egypt: "What do I care if you die?": Negligence and denial of health care in Egyptian prisons*, (Index: MDE 12/3538/2021), 25 January 2021, [amnesty.org/en/documents/mde12/3538/2021/en/](https://www.amnesty.org/en/documents/mde12/3538/2021/en/)

¹¹⁵ Amnesty International, "Egypt: Master's student sentenced to four years in prison for publishing 'false news'", 22 June 2021, [amnesty.org/en/latest/news/2021/06/egypt-masters-student-sentenced-to-four-years-in-prison-for-publishing-false-news/](https://www.amnesty.org/en/latest/news/2021/06/egypt-masters-student-sentenced-to-four-years-in-prison-for-publishing-false-news/)

of Covid-19 was recorded in the country in March 2020, President Andry Rajoelina warned that no one should “share false information to stir up trouble among the population” and that “anyone who relays false news will be punished by law”. Following this statement, journalists were attacked and arrested for questioning the government’s handling of the Covid-19 crisis. For example, Arphine Helisoa, a publishing director and journalist at newspaper *Ny Valosoa*, was arrested in April 2020 and held in pre-trial detention, charged with spreading fake news and incitement of hatred towards President Andry Rajoelina. Her article alleged that the government had mismanaged the crisis – citing the decision to allow open markets without implementing any physical distancing or other protective measures while using excessive force to disperse people who remained outside. The article accused the President of being a ‘murderer’ for his alleged failure to implement measures to stem the spread of the virus in a relevant way to the Malagasy context, thus leading to more deaths.¹¹⁶ She was released a month later following a presidential amnesty for imprisoned journalists, although it was unclear whether the charges were dropped.¹¹⁷

Public health experts and health workers have also been targeted in Madagascar. When the Malagasy branch of the Institut Pasteur published high infection figures on the Covid-19 pandemic, the government responded by publicly questioning the institute and opening an investigation. A doctor who had provided scientific advice on the measures that the government should take had to go into exile, fearing for his safety. The way in which the authorities targeted public health experts led many to self-censorship, despite widespread concerns that the authorities made no efforts to procure vaccines.¹¹⁸ It was thanks to pressure by national and international public health experts, health care workers, civil society organisations and activists, that in March 2021 the President of Madagascar finally agreed to secure and provide vaccines for those willing to get vaccinated.¹¹⁹

Concerns about press freedom in **Cuba** have been raised for decades, however, with the pandemic, the situation appears to have worsened. Civil society and journalists expressed concern that Decree-Law 370, a law related to online expression, appeared to tighten the Cuban government’s network of control and censorship online during the pandemic. Independent journalists have been fined for reporting on the pandemic and its impact on the country, while many other critics have faced spurious prosecution and arbitrary detention for sharing information and opinions on Covid-19, which is a particularly daunting and dangerous prospect given that prisons are overcrowded, and little medical care is available. Roberto Quiñones is one of the journalists who dared to report on prison conditions, and was detained for a year.¹²⁰ The situation has also been documented by Human Rights Watch who have reported on the use of pandemic-related restrictions and the accusation of “spreading an epidemic” as a pretext for the authorities to target dissidents and government critics with arbitrary arrests, abusive prosecutions, and detention in unsanitary and overcrowded cells conducive to the spread of Covid-19.¹²¹

In **Venezuela**, smearing and stigmatization campaigns against those critical of the government have intensified over the past year. Independent media outlets such as Efecto Cocuyo, community radio channel Fe y Alegría, as well as the National Press Workers Union, VPI TV, and news journal Panorama, have been among the main targets of the most recent crackdown. According to Venezuelan human rights organization PROVEA, during the first eight months of the state of emergency declared in response to the pandemic, 66 journalists and other media workers have been arbitrarily detained in the country simply for their journalistic work.¹²² At the beginning of the pandemic, medical personnel, journalists and others also faced detention after calling attention to new Covid-19 cases or to the scarcity of medical supplies and basic goods. For example, journalist Darwinson Rojas was arrested in March 2020 in reprisal for his reporting on the spread of Covid-19 in the

¹¹⁶ Amnesty International, *Madagascar: Journalist held in pre-trial detention as authorities use COVID-19 context to intimidate journalists*, 9 April 2020, [amnesty.org/en/documents/AFR35/2117/2020/en/](https://www.amnesty.org/en/documents/AFR35/2117/2020/en/)

Since 2020 President of Madagascar had been promoting a herbal concoction as a cure for the virus prompting a warning from the WHO, see: New Scientist, “No evidence ‘Madagascar cure’ for Covid-19 works, says WHO”, 15 May 2020, [newscientist.com/article/2243669-no-evidence-madagascar-cure-for-covid-19-works-says-who/](https://www.newscientist.com/article/2243669-no-evidence-madagascar-cure-for-covid-19-works-says-who/)

¹¹⁷ Amnesty International, *Report 2020/2021: the state of the world’s human rights*, (previously cited) p.235

¹¹⁸ Amnesty International, « Madagascar. Le déni face aux vaccins anti-COVID-19 prive des millions de personnes de toute vaccination », 22 March 2021, [amnesty.org/fr/latest/campaigns/2021/03/madagascar-le-deni-face-aux-vaccins-prive-des-millions-de-personnes-de-toute-vaccination/](https://www.amnesty.org/fr/latest/campaigns/2021/03/madagascar-le-deni-face-aux-vaccins-prive-des-millions-de-personnes-de-toute-vaccination/)

¹¹⁹ The first vaccines reached the country and were administered in May 2021, Africa News, “Madagascar starts COVID-19 vaccinations after surge in cases”, 10 May 2021, [africanews.com/2021/05/10/madagascar-starts-covid-19-vaccinations-after-surge-in-cases/](https://www.africanews.com/2021/05/10/madagascar-starts-covid-19-vaccinations-after-surge-in-cases/)

¹²⁰ Amnesty International, *Open letter to Miguel Díaz-Canel Bermúdez, President of the Republic of Cuba*, (Index: AMR 25/2256/2020) <https://www.amnesty.org/fr/documents/amr25/2256/2020/en/>

He was released in September 2020, see Amnesty International, *Prisoner of Conscience Released: Roberto Quiñones Haces*, (Index: AMR 25/3093/2020), [amnesty.org/en/documents/amr25/3093/2020/en/](https://www.amnesty.org/en/documents/amr25/3093/2020/en/)

¹²¹ Human Rights Watch, “Cuba: Covid-19 Rules Used to Intensify Repression”, 7 December 2020, [hrw.org/news/2020/12/07/cuba-covid-19-rules-used-intensify-repression](https://www.hrw.org/news/2020/12/07/cuba-covid-19-rules-used-intensify-repression)

¹²² Amnesty International, *Venezuela: Attacks against freedom of expression must cease immediately* (Index AMR 53/3506/2021), [amnesty.org/en/documents/amr53/3506/2021/en/](https://www.amnesty.org/en/documents/amr53/3506/2021/en/)

country. Darvinson was conditionally released after 12 days in custody and charged with “advocacy of hatred” and “instigation to commit crimes”. The charges against him have not been dropped and there has been no news on when the trial will take place.¹²³

With the expanded powers given to the authorities by anti-“fake news” legislation in **Russia**, the government has sent a powerful message to anyone who might be tempted to criticise the way the authorities have handled the pandemic. Health workers who have criticised the government’s response have also been targeted. For example, the authorities have opened an administrative investigation into endocrinologist Yulia Volkova, accusing her of disseminating ‘knowingly false’ information about Covid-19, after she published a video on Twitter in March 2020 in which she asked that physicians be provided with PPE.¹²⁴ Around the same time, Dr Anastasia Vasilyeva was interrogated by police in connection with her YouTube video where she called on doctors not to work without protective equipment. Two days later, she was arrested together with colleagues from the Alliance of Doctors union and accompanying journalists who were bringing masks and other protective equipment for medics at the local hospital in Okulovka, a village in Novgorod region (western Russia). They were charged with “non-compliance with the rules of conduct to prevent and liquidate an emergency situation” and later released. However, Anastasia Vasilyeva was not allowed to leave the police station and was violently dragged back inside. She was reportedly choked and hit in the abdomen and passed out as a result. A lawyer was denied access to her for about six hours. Anastasia Vasilyeva spent the night in police detention and was eventually given a fine on charges of “disobeying a police officer”.¹²⁵ In January 2021, protest rallies against the arbitrary arrest and unfounded, politically motivated prosecution of Aleksei Navalny, a prominent anti-corruption activist and Vladimir Putin’s critic, erupted across Russia and continued for 10 days. Authorities described the protests as “illegal”, citing the country’s unduly restrictive legislation on assemblies, and responded by prosecuting individuals they perceived responsible for encouraging the protests. The Investigative Committee arrested 12 activists in Moscow and Nizhny Novgorod. The Committee claimed the activists had violated Covid-19 related sanitary rules simply for calling or appearing to call for the protests with tweets and blog posts.¹²⁶

¹²³ Amnesty International, *Venezuela: Journalist awaits dismissal of arbitrary charges* (Index: AMR 53/2385/2020), [amnesty.org/en/documents/amr53/2385/2020/en/](https://www.amnesty.org/en/documents/amr53/2385/2020/en/)

¹²⁴ Amnesty International, “Amnesty International demands termination of fake news case against doctor Yulia Volkova”, 8 May 2020, eurasia.amnesty.org/2020/05/08/amnesty-international-trebuje-prekrasheniya-dela-o-fake-news-v-otnoshenii-vracha-yulii-volkovoi/;

¹²⁵ Amnesty International, “Russia: Authorities detain doctor who exposed flaws in COVID-19 response”, 3 April 2020, [amnesty.org/en/latest/news/2020/04/russia-authorities-detain-doctor-who-exposed-flaws-in-covid19-response/](https://www.amnesty.org/en/latest/news/2020/04/russia-authorities-detain-doctor-who-exposed-flaws-in-covid19-response/)

¹²⁶ Amnesty International, *Russia: Activists detained under absurd “sanitary” charges for social media posts in support of public protest* (Index: EUR 46/4027/2021), [amnesty.org/en/documents/eur46/4027/2021/en/](https://www.amnesty.org/en/documents/eur46/4027/2021/en/)

4. MISINFORMATION UNDERMINING THE COVID-19 RESPONSE

Long before the arrival of Covid-19, the world was already facing serious problems with regards to misinformation¹²⁷ (false or inaccurate information shared without malicious intent), disinformation (false or inaccurate information shared to deliberately deceive or mislead), propaganda and conspiracy theories. However, the uncertainty and confusion created by the pandemic provided new steam for the rapid spread of false or misleading information, which can undermine efforts by governments and public health authorities to contain the transmission of the virus, provide adequate treatment, and encourage the uptake of vaccines when available. Indeed, misinformation on different aspects of the pandemic has contributed to behaviours such as the consumption of harmful products as a cure for Covid-19, vaccine hesitancy or the refusal to comply with public health recommendations, such as mask wearing.¹²⁸

Although misinformation has played a negative role in the response of other major epidemics throughout history,¹²⁹ this time around, the unprecedented amount of information shared through social media and the high level of polarization around the world have exacerbated the problem.¹³⁰ Since February 2020, the WHO Director-General alerted the international community of an “infodemic” plaguing the world.¹³¹ Explaining that an infodemic is an overabundance of information about an issue, often containing false or misleading information, he called on all relevant stakeholders to increase their efforts to promote facts and science as the main way to counter the problems of misinformation. In particular, he called on social media companies to take action to address the Covid-19 infodemic,¹³² which accelerated thanks to the technology behind social

¹²⁷ For brevity and ease, this report will use the word “misinformation” when referring to both misinformation and disinformation, unless the issue of disinformation needs to be specifically named – also see glossary.

¹²⁸ See for example, Loomba, S., de Figueiredo, A., Piatek, S.J. *et al.*, “Measuring the impact of COVID-19 vaccine misinformation on vaccination intent in the UK and USA”, *Nature Human Behaviour*, vol. 5, 337–348, 5 February 2021, doi.org/10.1038/s41562-021-01056-1; www.nature.com/articles/s41562-021-01056-1; Jon Roozenbeek, Claudia R. Schneider, Sarah Dryhurst, John Kerr, Alexandra L. J. Freeman, Gabriel Recchia, Anne Marthe van der Bles, Sander van der Linden, “Susceptibility to misinformation about COVID-19 around the world”, *Royal Society Open Science*, vol. 7, 14 October 2020, doi.org/10.1098/rsos.201199

¹²⁹ Brookings, “Lessons from past pandemics: Disinformation, scapegoating, and social distancing”, 16 March 2020,

brookings.edu/blog/techtank/2020/03/16/lessons-from-past-pandemics-disinformation-scapegoating-and-social-distancing/

¹³⁰ Cinelli, M., Quattrocioni, W., Galeazzi, A. *et al.*, “The COVID-19 social media infodemic” *Scientific Reports* 10, 6 October 2020, doi.org/10.1038/s41598-020-73510-5

¹³¹ UN, “UN tackles ‘infodemic’ of misinformation and cybercrime in COVID-19 crisis”, 31 March 2020, www.un.org/en/un-coronavirus-communications-team/un-tackling-%E2%80%98infodemic%E2%80%99-misinformation-and-cybercrime-covid-19; WHO, “Managing the COVID-19 infodemic: Promoting healthy behaviours and mitigating the harm from misinformation and disinformation”, 23 September 2020, who.int/news/item/23-09-2020-managing-the-covid-19-infodemic-promoting-healthy-behaviours-and-mitigating-the-harm-from-misinformation-and-disinformation

¹³² WHO, “Managing the COVID-19 infodemic: Promoting healthy behaviours and mitigating the harm from misinformation and disinformation”, 23 September 2020, who.int/news/item/23-09-2020-managing-the-covid-19-infodemic-promoting-healthy-behaviours-and-mitigating-the-harm-from-misinformation-and-disinformation

Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights*, November 2019, www.amnesty.org/en/documents/pol30/1404/2019/en/

media platforms and search engines that are based on targeting users with sensationalist and often false information.¹³³

Despite the early warnings from the WHO Director-General and other UN officials, global leaders have failed to address the current infodemic and have let misinformation spread. Censorship and criminalization of what is deemed “fake news” have been the main tools used around the world, despite its counterproductive results and the fact that it contravenes the right to freedom of expression. In fact, censorship and criminalization are excessively punitive and often ineffective measures against misinformation and can contribute to mistrust in the authorities at a time when trust and cooperation are essential to encourage people to follow public health guidance.

Instead of criminalising and silencing, States should be proactive in providing credible, reliable, objective, evidence-based and accessible information to all. States should also implement comprehensive and coordinated measures to address the spread of misinformation online, including by ensuring that social media companies take concrete action to respond to the proliferation of misinformation on their platforms, providing an enabling environment for quality reporting and independent media, and supporting health and internet literacy initiatives. States must also guarantee the right to access information about the pandemic, be transparent, open to scrutiny, and be accountable when mistakes are made, with a view to gain the trust of the public and ensure cooperation with public health measures.¹³⁴

These are some important, much needed measures that will contribute to combating misinformation related to the public health response. However, though technology and divisive politics have played a big role in spreading misinformation and confusion, as highlighted by the Special Rapporteur on Freedom of Expression, States must also recognize that the spread of misinformation is also a consequence of a pre-existing and complex context that includes: “a struggling legacy media sector, [...] low levels of digital and media literacy among the general public; and the frustrations and grievances of a growing number of people, fuelled by decades of economic deprivation, market failures, political disenfranchisement and social inequalities, which make some individuals more susceptible to manipulation”.¹³⁵ These underlying factors must also be addressed by States, if they are to find lasting, holistic solutions to this issue.

4.1 THE LINK BETWEEN MISINFORMATION AND THE RIGHT TO HEALTH

When people lack access to credible, objective and evidence-based information, their ability to make informed decisions about their own health is limited. False and misleading information have become increasingly prevalent since the early days of the Covid-19 pandemic, spreading rapidly through social media and other media outlets, creating confusion and distrust among the general population. Misrepresentations, rumors, and conspiracy theories related to Covid-19 have included trivializing the risks of the virus, equating Covid-19 with seasonal influenza, questioning the effectiveness of mitigation and control measures, such as the use of masks, promoting unproven or harmful treatments, and questioning the development and distribution of vaccines and the motives for the public health measures.¹³⁶

¹³³ Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (POL 30/1404/2019), 21 November 2019, [amnesty.org/en/documents/pol30/1404/2019/en/](https://www.amnesty.org/en/documents/pol30/1404/2019/en/)

¹³⁴ For example, the Special Rapporteur suggested that countering disinformation should be based on “full, honest and evolving communication with the public, the promotion and protection of an independent press, and the careful and public correction of misinformation that could lead to public health harm. Beyond the pandemic, States should take steps to ensure an enabling environment for independent media and educational settings that promote media literacy and otherwise give individuals critical-thinking tools to distinguish between verifiable and unverifiable claims.”, UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, *Disease pandemics and the freedom of opinion and expression*, 23 April 2020, UN Doc. A/HRC/44/49, para. 47.

¹³⁵ UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, *Disinformation and freedom of opinion and expression*, 13 April 2021, UN Doc. A/HRC/47/25, para. 20.

¹³⁶ S. Evanega, M. Lynas, J. Adams, K. Smolnyak, *Coronavirus misinformation: quantifying sources and themes in the COVID-19 ‘infodemic’*, October 2020, allianceforscience.cornell.edu/wp-content/uploads/2020/09/Evanega-et-al-Coronavirus-misinformationFINAL.pdf; Jane Galvão, “COVID-19: the deadly threat of misinformation”, Correspondence published in *The Lancet*, 5 October 2020, [thelancet.com/journals/laninf/article/PIIS1473-3099\(20\)30721-0/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(20)30721-0/fulltext)

ACCESS TO HEALTH-RELATED INFORMATION AS PART OF THE RIGHT TO HEALTH

Access to health-related information is a crucial part of the right to health. Providing education and access to information on the main health problems in the community, including methods of preventing and controlling them has been considered by the UN Committee on Economic, Social and Cultural Rights as an “obligation of comparable priority” to the core obligations of the right to health.¹³⁷

Access to information is a vital dimension of the accessibility of health care and includes the right to seek, receive and impart information and ideas concerning health issues.¹³⁸ Everyone has the right to easy, accessible, timely, and meaningful information concerning the nature and level of any particular health threat, the possible measures to be taken to mitigate risks, early warning information of possible future consequences, and information on ongoing response efforts. Information should be available in the languages necessary to meet the various needs of those affected, through media and in formats that can be easily understood and accessed so that those affected can fully participate and make informed decisions about their own health.

Since December 2020, when the first vaccines became available to the public, misinformation about their production, effects and distribution became rife.¹³⁹ Studies have shown that misinformation has the potential to reduce willingness to get the vaccine.¹⁴⁰ Such “vaccine hesitancy”¹⁴¹ represents, along with the unfair distribution and lack of widespread availability of vaccines, one of the major threats to the right to health in the context of Covid-19 as it impedes reaching optimal immunization rates. Vaccine hesitancy is not new or unique to Covid-19 and was identified by the WHO as one of the top threats to global health in 2019,¹⁴² as a growing obstacle to achieving protection against infectious diseases in many countries.¹⁴³

The reluctance to be vaccinated has historically been associated with a variety of factors related to the accessibility and acceptability of health services, such as lack of access to health information and services, structural racism and inequality, a history of bungled public health measures and messaging,¹⁴⁴ and general mistrust in government.¹⁴⁵ However, the recent overabundance of vaccine misinformation is exacerbating this trend.¹⁴⁶ For example, the resurgence of measles in places where the disease was almost entirely eradicated took place in areas with decreasing vaccination rates, which is believed to have been largely driven by inaccurate information about the MMR vaccine (measles, mumps and rubella).¹⁴⁷

¹³⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 44.

¹³⁸ CESCR General Comment 14, para. 12(b).

¹³⁹ S. L. Wilson, C. Wiysonge, “Social media and vaccine hesitancy”, *BMJ Global Health*, Vol. 5, Issue 10, October 2020, gh.bmj.com/content/5/10/e004206

¹⁴⁰ Sander van der Linden, Graham Dixon, Chris Clarke, John Cook, “Inoculating against COVID-19 vaccine misinformation”, *EClinical Medicine* Vol 33, 1 March 2021, [thelancet.com/journals/eclinm/article/PIIS2589-5370\(21\)00052-3/fulltext](https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(21)00052-3/fulltext)

¹⁴¹ A. de Figueiredo *et al*, “Mapping Global Trends in Vaccine Confidence and Investigating Barriers to Vaccine Uptake: A Large-scale Retrospective Temporal Modelling Study”, *The Lancet*, Vol 396, Issue 10255, 26 September 2020, [thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31558-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31558-0/fulltext)

¹⁴² WHO, “Ten threats to global health in 2019”, (accessed 19 September 2021), [who.int/news-room/spotlight/ten-threats-to-global-health-in-2019](https://www.who.int/news-room/spotlight/ten-threats-to-global-health-in-2019)

¹⁴³ See also, S. Lane, N.E. MacDonald, M. Marti, L. Dumolard, “Vaccine hesitancy around the globe: analysis of three years of WHO/UNICEF Joint Reporting Form data—2015–2017”, *Vaccine* Vol. 36, 3861–3867, 18 June 2018, <https://pubmed.ncbi.nlm.nih.gov/29605516/>

¹⁴⁴ Judy Truong, Simran Bakshi, Aghna Wasim, Mobeen Ahmad, Umair Majid, “What factors promote vaccine hesitancy or acceptance during pandemics? A systematic review and thematic analysis”, *Health Promotion International*, 2021; daab105, <https://doi.org/10.1093/heapro/daab105>. For example, in France past health scandals contributed to mistrust in vaccines:

Euronews, “Why do so few people in France want to take the COVID-19 vaccine?”, 19 January 2021, [euronews.com/2021/01/18/why-do-so-few-people-in-france-want-to-take-the-covid-19-vaccine](https://www.euronews.com/2021/01/18/why-do-so-few-people-in-france-want-to-take-the-covid-19-vaccine)

¹⁴⁵ For example, see Heidi J. Larson, “The biggest pandemic risk? Viral misinformation”, *Nature* 562, 309, 16 October 2018, [nature.com/articles/d41586-018-07034-4](https://www.nature.com/articles/d41586-018-07034-4); J.V. Lazarus, S.C. Ratzan, A. Palayew, *et al*. “A global survey of potential acceptance of a COVID-19 vaccine”, *Nature Medicine* Vol. 27, 225–228, 20 October 2020, [nature.com/articles/s41591-020-1124-9](https://www.nature.com/articles/s41591-020-1124-9)

¹⁴⁶ “Crucially, we demonstrate a clear link, replicated internationally, between susceptibility to misinformation and vaccine hesitancy and a reduced likelihood of complying with public health guidance” - J. Roozenbeek, C. Schneider, *et al* “Susceptibility to misinformation about COVID-19 around the world” (previously cited). Also: “[In the] analysis of social media activity for up to 190 countries, researchers found that each 1-point increase in efforts by foreign vaccine disinformation campaigns on social media was associated with a 15% annual increase in the number of negative tweets about vaccination.” S. L. Wilson, C. Wiysonge, “Social Media and Vaccine Hesitancy” (previously cited). For more on this, see also Heidi J Larson, *Stuck: How Vaccine Rumors Start — and Why They Don't Go Away*, Oxford UP, 2020.

¹⁴⁷ Guardian, “Lives at risk from surge in measles across Europe, experts warn”, 29 August 2019, [theguardian.com/society/2019/aug/29/lives-at-risk-from-surge-in-measles-across-europe-experts-warn](https://www.theguardian.com/society/2019/aug/29/lives-at-risk-from-surge-in-measles-across-europe-experts-warn)

Although vaccine acceptance is fluid¹⁴⁸ and may increase as more scientific information on the new Covid-19 vaccines becomes available,¹⁴⁹ states have an urgent obligation to tackle false or misleading information driving vaccine hesitancy by providing credible, objective, evidence-based, timely, and accessible information through public information campaigns as an essential step to promote and protect the right to health. As global efforts are underway to ensure that vaccines are distributed and made available to everyone around the world, providing accurate, evidence-based and timely information will be a crucial step to minimize vaccine hesitancy driven by misinformation.¹⁵⁰

States also need to ensure that public information campaigns reach all social groups, particularly the most marginalized, and ensure no-one is left behind. It is crucial that States draw upon disaggregated data to tackle vaccine hesitancy more effectively and calibrate public information campaigns with a view to improve the levels of acceptability, especially amongst social groups that are hesitant towards vaccines.

To ensure vaccines are accepted among the various social groups, states should implement a range of measures for individuals to be able to exercise their right to freedom of expression and autonomously seek, receive and impart information and ideas from a range of sources, including from independent media and civil society sources. This is crucial so that individuals are able to exercise their right to informed consent regarding their own health when choosing to receive a vaccine or not.¹⁵¹

Evidence has shown that harsh measures to suppress the free flow of information, such as censorship or the criminalization of “fake news”, can lead to increased mistrust in the authorities, promote space for conspiracy theories to grow, and the suppression of legitimate debate and concerns. For example, a recent study on the effect of ‘anti-vax’ campaigns on Covid-19 vaccine acceptancy found that when the authorities shut down anti-vax groups they unintentionally silenced those with legitimate questions for fear of shame or ridicule and led them to harbour greater suspicion of public health authorities and sympathise with an anti-vaccination rhetoric.¹⁵²

The UN Special Rapporteur on the right to freedom of opinion and expression has emphasised that where human rights are constrained, misinformation also tends to thrive. On the other hand, the Special Rapporteur stressed that where the right to freedom of expression is adequately protected, civil society organizations, human rights defenders, journalists and others are a powerful tool to combat misinformation as they are able to challenge falsehoods and present alternative viewpoints.¹⁵³ Given the lack of evidence to support censorship as a reliable means of producing desirable health behaviour change, the Special Rapporteur urged countries to avoid the deployment of this strategy and to instead enable an environment in which diverse and reliable information can be shared as an antidote to misinformation.

4.2 THE ROLE OF TECHNOLOGY IN MISINFORMATION

There is no doubt that the exponential spread of misinformation and disinformation in the past few years, including during the pandemic, has been facilitated by new digital technologies. As analysed in Amnesty International’s 2019 report *Surveillance giants: How the business model of Google and Facebook threatens*

¹⁴⁸ For example, a monthly survey conducted in the USA about people’s Covid-19 stance showed the fluidity of vaccine hesitancy through time. As of January 2021, it showed a growing acceptance of the vaccine compared to December 2020. The same survey also showed that vaccine acceptance varied according to political affiliation (with 33% of Republicans stating they would not get the vaccine), race and ethnicity (with Black and Hispanic respondents most likely to say they want to “wait and see” if the vaccine works - 43% and 37%, respectively), or location (with 21% of rural residents saying they will definitely not get the jab vs an 8% of urban residents), Kaiser Family Foundation, “KFF COVID-19 Vaccine Monitor: January 2021”, 22 January 2021, [kff.org/report-section/kff-covid-19-vaccine-monitor-january-2021-vaccine-hesitancy/](https://www.kff.org/report-section/kff-covid-19-vaccine-monitor-january-2021-vaccine-hesitancy/)

¹⁴⁹ For example, in Spain according to a survey by the Centre for Sociological Research in January 2021, 72,5% of Spanish people were keen to get vaccinated compared to 40,5% a month earlier, El País, “Los españoles dispuestos a vacunarse inmediatamente de la covid-19 se disparan al 72%, según el CIS”, 28 January 2021, elpais.com/sociedad/2021-01-28/los-espanoles-dispuestos-a-vacunarse-inmediatamente-de-la-covid-19-se-disparan-al-72-segun-el-cis.html. In the USA, according to the KFF Monitor surveys, the percentage of those who responded they wanted to “wait and see” before getting the vaccine, decreased from 31% in January to 10% in June, KFF, “KFF COVID-19 Vaccine Monitor: June 2021”, 30 June 2021, [kff.org/coronavirus-covid-19/poll-finding/kff-covid-19-vaccine-monitor-june-2021/](https://www.kff.org/coronavirus-covid-19/poll-finding/kff-covid-19-vaccine-monitor-june-2021/)

¹⁵⁰ On 22 September 2021, Amnesty launched the campaign “100 day countdown: 2 billion Covid-19 vaccines now!”, calling on governments and pharmaceutical companies to meaningfully address global vaccine inequality so millions more people have the opportunity to be vaccinated by the end of the year. See also Amnesty International, *A Double Dose of Inequality: Pharma Companies and the Covid-19 Vaccines Crisis*, (Index: POL 40/4621/2021), 22 September 2021, [amnesty.org/en/documents/pol40/4621/2021/en/](https://www.amnesty.org/en/documents/pol40/4621/2021/en/)

¹⁵¹ CESCR General Comment 14, para 12(b)

¹⁵² R. Armitage, R., “Online ‘anti-vax’ campaigns and COVID-19: censorship is not the solution”, *Public health* Vol. 190, January 2021, [ncbi.nlm.nih.gov/pmc/articles/PMC7834951/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7834951/)

¹⁵³ UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, *Disinformation and freedom of opinion and expression*, 13 April 2021, UN Doc. A/HRC/47/25, para. 4

human rights,¹⁵⁴ all major search engines and social media platforms have played a role in the spread of erroneous and misleading information. As such, they have contributed to the threats posed by misinformation to the right to health as people have faced increased challenges in accessing objective, credible and evidence-based information about public health recommendations, treatments, and vaccines.

The mechanisms driving misinformation on social media platforms are recognised by many experts and practitioners. Social media platforms are purposefully designed to captivate users' attention and maximise their engagement to a degree that can become highly addictive.¹⁵⁵ This engagement, coupled with the very detailed information these companies are collecting on people from across the digital world, enables them to infer detailed pictures of peoples' lives and behaviours which can be monetized – primarily for highly targeted advertising. This algorithmically driven targeting, profiling, and personalised content play an enormous role in shaping the online experience of each user and in determining the information they see, which may often include high levels of misinformation.

Since people are more likely to be drawn to novel, sensationalist or incendiary information or information that confirms their biases,¹⁵⁶ algorithms that curate what users see on social media may end up promoting or amplifying false or misleading content.¹⁵⁷ By virtue of repetition of similar content, some of these platforms can end up persuading users that falsehoods are true. For example, YouTube's recommendation algorithm automatically promotes similar content in a way that can reinforce false information, conspiracy theories and rumours by joining together different videos that repeat similar false narratives.¹⁵⁸ This creates the illusion that there are multiple sources for the same idea, persuading the user of the veracity of the information. In some cases, users can develop a sort of "tunnel vision" and lose their capacity for discerning between scientific facts, misleading information, and outright lies.

The combination of algorithmically-driven ad targeting and personalized content has allowed Google and Facebook's platforms to play an enormous role in shaping people's online experience and determining the information they see. This can influence and modify opinions and thoughts, which risks affecting peoples' ability to make autonomous choices, including about their own health. Moreover, the algorithms are designed to find the best ways to nudge people towards particular outcomes based on an individual's unique personal characteristics. These capabilities mean there is a high risk that the companies could be directly harming the rights to freedom of thought, conscience and religion and to freedom of opinion and expression through their use of algorithmic systems.¹⁵⁹ Furthermore, the way in which these algorithms work risk providing a platform for other actors to access, utilize or weaponize their platforms to abuse the rights of other users.¹⁶⁰

Already in 2018, UNESCO warned that intentionally misleading content spread on social media platforms was affecting peoples' understanding of reality and undermining trust, informed dialogue, a shared sense of reality, mutual consent, and participation.¹⁶¹ In other words, in a world in which erroneous or misleading information is so prevalent, the right to be informed and form an opinion based on facts and the ability to have a debate around those facts, becomes fundamentally undermined. Similarly, the Council of Europe's Committee of Ministers has also warned that "fine grained, sub-conscious and personalised levels of algorithmic persuasion may have significant effects on the cognitive autonomy of individuals and their right to form opinions and take independent decisions."¹⁶² As individuals are deprived of the ability to discern truth from fiction and to hold an informed opinion based on the best available scientific and health information in order to make choices on their own health, their right to health is also affected.

¹⁵⁴ Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (POL 30/1404/2019), November 2019, [amnesty.org/en/documents/pol30/1404/2019/en/](https://www.amnesty.org/en/documents/pol30/1404/2019/en/)

¹⁵⁵ This has also been recognized by former employees of companies like Facebook who have been talking publicly about this in the last few years. According to an internal Facebook report from 2018, "if left unchecked," Facebook would feed users "more and more divisive content in an effort to gain user attention and increase time on the platform", Wall Street Journal, "Facebook Executives Shut Down Efforts to Make the Site Less Divisive", 26 May 2020, [wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499](https://www.wsj.com/articles/facebook-knows-it-encourages-division-top-executives-nixed-solutions-11590507499). For more information on the power of algorithms and the business model of tech giants, see Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (previously cited).

¹⁵⁶ Scientific American, "Biases Make People Vulnerable to Misinformation Spread by Social Media", 21 July 2018, [scientificamerican.com/article/biases-make-people-vulnerable-to-misinformation-spread-by-social-media/](https://www.scientificamerican.com/article/biases-make-people-vulnerable-to-misinformation-spread-by-social-media/)

¹⁵⁷ According to a report by the American Association for the Advancement of Science based on data collected from Twitter, "falsehood diffused significantly farther, faster, deeper, and more broadly than the truth", Soroush Vosoughi, Deb Roy, Sinan Aral "The spread of true and false news online", 9 March 2018, *Science*, Vol. 359, Issue 6380, science.sciencemag.org/content/359/6380/1146

¹⁵⁸ Amnesty International, *Surveillance giants*, p. 35

¹⁵⁹ E. Aswad, "Losing the Freedom to be human", *Columbia Human Rights Law Review*, Vol. 52, 29 February 2020, ssrn.com/abstract=3635701

¹⁶⁰ Amnesty International, *Surveillance giants*, p. 30.

¹⁶¹ UNESCO, *Journalism, « fake news », and disinformation*, 2018, p. 36, unesdoc.unesco.org/ark:/48223/pf0000265552_eng

¹⁶² Council of Europe's Committee of Ministers, Declaration on the Manipulative Capabilities of Algorithmic Processes, February 2019, search.coe.int/cm/pages/result_details.aspx?ObjectId=090000168092dd4b

Social media companies bear a direct responsibility for how their platforms are making the public vulnerable to misinformation and thus posing a direct threat to their right to seek, receive and impart information, including about their health and public health measures. The UN Guiding Principles on Business and Human Rights state that the responsibility to respect rights extends to all companies, wherever they operate, regardless of their size, sector, operational context, ownership and structure.¹⁶³ This means that social media companies must consider the human rights risks that arise from their operations and services, including in the context of Covid-19, and take concrete action when their activities might have a negative effect on the enjoyment of human rights, including measures that affect the right to health or that more broadly impede tackling the pandemic.

After repeated calls and increased pressure to address the problem of false and misleading information driven by social media and search engines, some tech companies have recently started to take some measures to reduce the impact of misinformation on their platforms. Some of these measures include taking down or flagging false information,¹⁶⁴ banning certain groups and users, or reducing the number of people a message can be forwarded to. However, the financial incentives to not act in a comprehensive way surface: misinformation can be lucrative,¹⁶⁵ while taking decisive steps requires resources and may infringe upon the right to freedom of expression if not carried out within clear policies that have human rights and transparency at the core.

So far, the response from companies continues to be piecemeal and inadequate.¹⁶⁶ Tech companies self-regulation has proven to be ineffective, and as long as states fail to enact and enforce digital regulation and data protection laws to overhaul the way technology works for essential digital services and infrastructure, it is hard to believe that technology companies will adopt rights-respecting business models on their own.¹⁶⁷ An investigation by the Center for Countering Digital Hate (CCDH), tracking over 400 English language social media accounts focusing on anti-vaccination messaging, found that such accounts had almost 60 million followers and that they kept growing throughout 2020, particularly on YouTube and Instagram.¹⁶⁸ A subsequent investigation analyzed a sample of anti-vaccine content posted on Facebook in February-March 2021 and found that over 70% of that content could be traced back to a dozen leading anti-vaccine entrepreneurs and campaigners, most of which continued to have active accounts on social media platforms such as Facebook, Instagram and Twitter.¹⁶⁹ According to internal Facebook documents, the company is apparently aware that it is struggling to stay on top of the problem of misinformation on its platform, particularly about vaccines, but has failed to be transparent about it, and keeps downplaying this issue externally.¹⁷⁰

Ultimately, tackling the spread of misinformation on social media platforms will require going beyond content moderation to overhaul corporate practices reliant on invasive mass surveillance and profiling.¹⁷¹ As recommended by the UN Special Rapporteur on the right to freedom of expression, companies should proactively respond to expressed concerns and review their business models to ensure compliance with human rights.¹⁷²

4.3 “SUPERSPREADERS” OF MISINFORMATION

Many global leaders across the world have been identified as leading spreaders of misinformation. Particularly in the early stages of the Covid-19 pandemic, when the world scrambled to understand and confront the new disease, authorities at the highest level publicly challenged and questioned scientific evidence. There were numerous examples of erroneous messaging, manipulation, and minimizing of the pandemic by politicians in

¹⁶³ UN Guiding Principles on Business and Human Rights, Principle 14.

¹⁶⁴ Guardian, “Facebook bans misinformation about all vaccines after years of controversy”, 8 February 2021, theguardian.com/technology/2021/feb/08/facebook-bans-vaccine-misinformation

¹⁶⁵ According to the CCDH, advertising revenue from the anti vaxx industry pays \$1 billion 0 CCDH, *The Anti-Vaxx Industry. How Big Tech powers and profits from anti-vaccine misinformation*, 2020, www.counterhate.com/anti-vaxx-industry. See also Guardian, “Facebook ‘still making money from anti-vax sites’”, 30 January 2021, theguardian.com/technology/2021/jan/30/facebook-letting-fake-news-spreaders-profit-investigators-claim

¹⁶⁶ Guardian, “Misinformation ‘superspreaders’: Covid vaccine falsehoods still thriving on Facebook and Instagram”, 6 January 2021, theguardian.com/world/2021/jan/06/facebook-instagram-urged-fight-deluge-anti-covid-vaccine-falsehoods

¹⁶⁷ See Amnesty International’s position on the EU’s proposed Digital Services Act and Digital Markets Act, March 2021, amnesty.eu/news/amnesty-international-position-on-the-proposals-for-a-digital-services-act-and-a-digital-markets-act/

¹⁶⁸ CCDH, *The Anti-Vaxx Playbook*, 2020, counterhate.com/playbook

¹⁶⁹ CCDH, *The Disinformation Dozen*, March 2021, counterhate.com/disinformationdozen

¹⁷⁰ Wall Street Journal, “How Facebook hobbled Mark Zuckerberg’s bid to get America vaccinated”, 17 September 2021, [wsj.com/articles/facebook-mark-zuckerberg-vaccinated-11631880296](https://www.wsj.com/articles/facebook-mark-zuckerberg-vaccinated-11631880296)

¹⁷¹ New America, *It’s Not Just the Content, It’s the Business Model: Democracy’s Online Speech Challenge*, March 2020, newamerica.org/oti/reports/its-not-just-content-its-business-model/

places like the USA,¹⁷³ Brazil, Mexico, China, Iran, the Philippines and Tanzania, to name a few.¹⁷⁴ In many cases, misinformation provided an opportunity to gain political capital, sow division, repress dissent, and shift the blame for the government unpreparedness and incompetence amid the pandemic.¹⁷⁵

Misinformation and conspiracy theories throughout the pandemic have become even more entrenched as politicians and other influential figures tapping into polarizing “anti-establishment” narratives have also been spreading false and misleading information. A study conducted in several countries around Europe found a direct connection between these narratives and vaccine hesitancy in places like Italy, Hungary, Poland and France.¹⁷⁶ As political leaders in these countries claimed to “fight the elites” and defend individual liberties, they tended to spread erroneous and inflammatory messages about vaccines and other public health measures such as mask-wearing and physical distancing.¹⁷⁷

Given their elevated platforms and the potential to harm large amounts of people due to their high influence in government and the conduct of every-day life, these figures bear a higher level of responsibility to ensure they disseminate only information that is accurate and evidence based and should take extra care to avoid spreading misinformation as their actions can be far reaching and have a direct and dangerous impact on the health and lives of millions of people. For example, doubts expressed by politicians in several European countries in early 2021 about the effectiveness of one of the main vaccines led to increased levels of vaccine hesitancy in parts of the EU where that vaccine was available, initially held back vaccination programmes.¹⁷⁸

Studies and surveys show that the spread and impact of misinformation is greater where there is a pre-existing lack of trust in institutions.¹⁷⁹ A study by the Reuters Institute points out that in the absence of sufficient accurate information, misinformation may fill gaps in the public understanding of the disease, leading those distrustful of their government or political elites to become even more disinclined to trust official communications on these matters.¹⁸⁰ The dangerous effects of the failure of states to provide access to quality information and politicizing information about health measures has never been more evident.

Yet, the shock caused by the pandemic also offers important opportunities for states to break the cycle of misinformation and gain the trust of the public. As a UNDP official suggested, governments can “break the cycle of low trust [and] reap a “trust dividend” if [they] are able to collaborate with trusted actors to develop an effective communication strategy to combat misinformation and flood the system with “good” advice, thus

¹⁷³ For example, in the case of the USA, a 2020 study by Cornell University found that “based on a total sample of over 38 million articles published in English-language media around the world [...], mentions of US President Donald Trump within the context of Covid-19 misinformation made up by far the largest share of the infodemic”. According to the study, mentions of then President Trump comprised 37.9% of the overall misinformation conversation, well ahead of any other topics, making him the largest driver of the Covid-19 misinformation during 2020, S. Evanega, M. Lynas, J. Adams, K. Smolenyak, *Coronavirus misinformation: quantifying sources and themes in the COVID-19 ‘infodemic’*, October 2020, allianceforscience.cornell.edu/wp-content/uploads/2020/09/Evanega-et-al-Coronavirus-misinformationFINAL.pdf. Also, according to another study based on an English language corpus of misinformation on social media in early 2020, “top-down misinformation from politicians, celebrities, and other prominent public figures made up just 20% of the claims in our sample but accounted for 69% of total social media engagement. While the majority of misinformation on social media came from ordinary people, most of these posts seemed to generate far less engagement”, J. Scott Brennan, F. Simon, P.N. Howard, R. Kleis Nielsen, “Types, sources, and claims of COVID-19 misinformation”, 7 April 2020, reutersinstitute.politics.ox.ac.uk/types-sources-and-claims-covid-19-misinformation

¹⁷⁴ See an overview of this issue in Wikipedia, “COVID-19 misinformation by governments”, (accessed 20 September 2021), en.wikipedia.org/wiki/COVID-19_misinformation_by_governments

¹⁷⁵ This also includes: “One-sided and positively-framed information is presented in an effort to negate the significance of facts that are inconvenient for certain actors in power. Other disinformation designed to mislead for political advantage includes: equating COVID-19 with flu; making baseless claims about the likely length of the pandemic; and assertions about the (un)availability of medical testing and equipment.”, UNESCO, *Disinfodemic. Deciphering Covid-19 disinformation*, 2020, en.unesco.org/sites/default/files/disinfodemic_deciphering_covid19_disinformation.pdf, p. 6.

¹⁷⁶ CCDH, *The Anti-Vaxx Playbook* (previously cited)

¹⁷⁷ See for example, J. Kennedy, “Populist politics and vaccine hesitancy in Western Europe: An analysis of national-level data”, *The European Journal of Public Health*, Vol. 29(3), February 2019, researchgate.net/publication/331371955_Populist_politics_and_vaccine_hesitancy_in_Western_Europe_An_analysis_of_national-level_data

¹⁷⁸ Guardian, “Revealed: four in five Oxford Covid jabs delivered to EU not yet used”, 25 February 2021, theguardian.com/world/2021/feb/25/acceptance-problem-as-most-oxford-covid-jabs-delivered-to-eu-not-yet-used. Equally, in Pakistan in February 2021, the Punjab Minister of Health, stated that people should get vaccinated at their own risk and deaths related to the vaccine were “disturbing” - The News, “Corona vaccine may have side effects: Dr Yasmin Rashid”, 2 February 2021, thenews.com.pk/print/783809-corona-vaccine-may-have-side-effects-dr-yasmin-. Although there are many other reasons for vaccine hesitancy in the country, this kind of statements can heighten existing concerns about the vaccine health risks, as survey shows that this is a major reason behind hesitancy in Pakistan, see CERP, “Economic Vulnerability Assessment January 2021”, 8 March 2021, cerp.org.pk/news/economic-vulnerability-assessment-january-2021.

¹⁷⁹ Sevasti Chatzopoulou, ‘Social trust and government responses to Covid-19’, *Social Europe*, 4 May 2020, socialeurope.eu/social-trust-and-government-responses-to-covid-19. See also Vivienne Moxham-Hall and Lucy Strang, ‘Public opinion and trust in government during a public health crisis’, King’s College London, 22 April 2020, www.kcl.ac.uk/news/public-opinion-and-trust-in-government-during-a-public-health-crisis. According to studies, belief in misinformation is associated with: “lower trust in science and scientists, lower trust in journalists and the mainstream media, lower trust in government, as well as the role of political ideology, specifically conservatism” - J. Roozenbeek, C. Schneider, *et al* “Susceptibility to misinformation about COVID-19 around the world” (previously cited).

¹⁸⁰ J. Scott Brennan, F. Simon, P.N. Howard, R. Kleis Nielsen, “Types, sources, and claims of COVID-19 misinformation” (previously cited)

promoting public cooperation and positive outcomes”.¹⁸¹ By ensuring the right of access to trustworthy, accurate, evidence-based and accessible information, including through increased cooperation with public health authorities, independent media and civil society actors, governments can find a path for what they need to do to tackle the worrying impact of misinformation on the right to health.

4.4 HUMAN RIGHTS APPROACH TO TACKLING MISINFORMATION

False and misleading information cannot be easily censored or simply expunged, particularly in the age of social media and messaging apps. Even in a country where information and opinions are as tightly controlled as in China, rumours about the new coronavirus were circulating online since late 2019.¹⁸² Restricting information and the free expression of opinions and ideas through censorship, punitive laws, internet shutdowns, closing down media outlets, and persecuting journalists, human rights defenders and others expressing their views, are not only in contravention of international human rights law but are also ineffective measures that do not tackle the root causes of why the public remains vulnerable to misinformation. On the contrary, censorship and a blunt overregulation of the exercise of the right to freedom of expression increases mistrust in the authorities and whatever public health measures may be in place and drive more people to seek out “alternative”, “anti-establishment” or covert sources of information that may not have been put through scrutiny and cannot be debunked in the public arena.

Instead of punishment and censorship, human rights offer a different path which States should take in order to minimize the impact of false and misleading information. As mentioned above, the right to freedom of expression, including the right to seek, receive and impart information, is a human right which enables all individuals to enjoy a range of other human rights, including the right to health.¹⁸³ By upholding the right to freedom of expression, States would also ensure that individuals and groups, including journalists and civil society actors, can exchange information, discuss effective ways of tackling the disease, hold governments accountable for how they are responding to the pandemic, scrutinize the rollout of health and other social services, or highlight how different sectors of society are differently affected. Indeed, the ability of everyone to engage in a debate about possible solutions and contribute to the response or air legitimate misgivings and concerns, is a key element in overcoming the crisis in an inclusive manner. Winning the battle against the virus includes not just government led actions and top-down diktats, but also bottom-up approaches which can only come about if the rights to freedom of expression and access to information are fully enabled. As the World Health Organization put it, to be able to successfully fight back Covid-19, states should “inform, empower and listen to communities”.¹⁸⁴

In 2017 the UN, OSCE, OAS and the ACHPR independent experts on freedom of expression laid down a series of obligations and general principles for states to follow in order to combat misinformation.¹⁸⁵ As a key step, the independent experts identified the obligation of states to create an enabling environment for freedom of expression and highlighted the importance of ensuring access to a wide variety of sources of information and ideas, including through “promoting, protecting and supporting diverse media”, which can facilitate public debates and the open confrontation of ideas, as well as acting as a watchdog of government and others in power. Among other measures, they suggested this could be achieved by promoting a free, independent and diverse communications environment, including media diversity; establishing a clear regulatory framework for broadcasters; ensuring the presence of strong, independent and adequately resourced public service media operating under a clear mandate to serve the overall public interest; and setting and maintaining high standards of journalism.

In the context of the pandemic, states have a particular obligation to conduct public health information campaigns about Covid-19 and related health products. This is a crucial component of the right to health, as

¹⁸¹ Luis Felipe López-Calva, “Where the pandemic meets the infodemic: The challenge of misinformation in the fight against COVID-19 in LAC”, 20 October 2020, latinamerica.undp.org/content/rblac/en/home/presscenter/director-s-graph-for-thought/where-the-pandemic-meets-the-infodemic--challenge-of-misinformat.html

¹⁸² Citizen Lab, “Censored Contagion: How Information on the Coronavirus is Managed on Chinese Social Media”, 3 March 2020, citizenlab.ca/2020/03/censored-contagion-how-information-on-the-coronavirus-is-managed-on-chinese-social-media/

¹⁸³ CESCR General Comment 14

¹⁸⁴ WHO, “WHO Director-General's opening remarks at the media briefing on COVID-19 - 3 August 2020” (previously cited)

¹⁸⁵ Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda, March 2017, available at: ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21287&LangID=E

individuals can only make informed decisions about their health when they are given accurate, timely and accessible information. To make this information truly accessible, states should make every effort to ensure it reaches all social groups, particularly the most marginalized and ensure no one is left behind. For example, public health information campaigns should take into consideration language, register and tone, formats (e.g. written or oral, long or short, use of visuals, etc.), channels (e.g. social media, TV, radio, press, community information campaigns, etc.); what messages and messengers are more likely to be listened to and trusted (e.g. community and faith based organizations or leaders, health experts or medical practitioners from a variety of backgrounds). In short, if the public health measures and treatments are understandable in a range of social and cultural contexts, the public will be more likely to accept them.

Along with these obligations, there is also a range of best practice measures suggested by several international mechanisms and civil society organizations which should be incorporated into State responses. These include strategies on the best ways to combat misinformation, requiring governments and public health authorities to engage actively with the population to gain their trust and find solutions that are fair, proportionate, and inclusive.

For example, UN human rights experts have called on States to take measures to address misinformation in a way that complies with their human rights obligations, including by reaffirming their commitment to media freedom, diversity and independence, ensuring the safety of journalists,¹⁸⁶ ensuring full, honest and evolving communication with the public, investing in media information and digital literacy to equip individuals with the critical thinking tools to distinguish between verifiable and unverifiable information, which they recommend should become part of the national school curriculum.¹⁸⁷

Similarly, UNESCO has encouraged States to take steps to understand and monitor the reasons behind and the sources of misinformation.¹⁸⁸ Among other relevant measures, UNESCO has recommended governments conduct careful fact-checking and debunking of false or misleading information; providing government support and funding for quality and public interest journalism and counter-disinformation campaigns on media and social media platforms; supporting the target audiences of disinformation campaigns; strengthening ethical standards in reporting; educating the public and journalists and empowering them to differentiate between quality news and unreliable information.¹⁸⁹

Other best practice approaches taken by non-state actors have included various initiatives launched by health communication experts to promote health literacy¹⁹⁰ by engaging with communities, schools, faith based and public health leaders, and businesses.¹⁹¹ These relationships have been based on trust, and transparency and equity, and repeated, accessible messaging, to increase awareness of the best available medical advice and health care measures amongst the population.¹⁹²

¹⁸⁶ UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, *Disinformation and freedom of opinion and expression*, 13 April 2021, UN Doc. A/HRC/47/25

¹⁸⁷ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 23 April 2020, UN Doc. A/HRC/44/49

¹⁸⁸ For more info, see UNESCO, *Disinfodemic. Deciphering Covid-19 disinformation*, 2020, en.unesco.org/sites/default/files/disinfodemic_deciphering_covid19_disinformation.pdf

¹⁸⁹ For example, States promote media and digital literacy, including by covering these topics as part of the regular school curriculum and by engaging with civil society and other stakeholders to raise awareness about these issues. See example of Finland in CNN "Finland is winning the war on fake news. What it's learned may be crucial to Western democracy" May 2019, edition.cnn.com/interactive/2019/05/europe/finland-fake-news-intl/

¹⁹⁰ "Health literacy" is the degree to which people have the capacity to obtain, process, and understand basic health information and services to make appropriate health decisions. In a 2009 Ministerial declaration, the United Nations proclaimed health literacy is an important factor in ensuring significant health outcomes calling for the development of appropriate action plans to promote it, UN Economic and Social Council, "Implementing the internationally agreed goals and commitments in regard to global public health", 2009, un.org/en/ecosoc/julyhls/pdf09/ministerial_declaration-2009.pdf. UN bodies have over the years developed and promoted the idea of "health literacy" including as part of the SDGs – UN, "Health Literacy and Sustainable Development", (accessed 20 September 2021) who.int/healthpromotion/conferences/9gchp/health-literacy-sdgs/en/

¹⁹¹ For example see this initiative: PR Newswire, "Business Partners to convince-launch-a-global-covid-19-workplace-challenge-301217483.html" and the CONVINCe project, vaccineconfidence.org/covid-19 (accessed 20 September 2021)

¹⁹² For example, see Heidi Larson, "Five ways to build confidence in vaccines", 8 December 2020, healthawareness.co.uk/vaccines/five-ways-to-build-confidence-in-vaccines/

5. INTERNATIONAL STANDARDS

The right to freedom of expression, protected by multiple international human rights treaties,¹⁹³ is an indispensable condition for the full development of the person, indispensable for any society and essential for the promotion and protection of human rights.¹⁹⁴ As emphasised by the UN Committee on Economic, Social and Cultural Rights (CESCR), the right to freedom of expression is also an essential component of the right to health, given its special importance in ensuring that people can access information to be able to make decisions about their own health and enjoy the highest attainable standard of health.¹⁹⁵

Accurate and accessible information about public health in the context of a pandemic is crucial both to reduce the risks of transmission and to protect the population against disinformation.¹⁹⁶ In this sense, the CESCR has stressed government's obligation to provide such information on a regular basis, in an accessible format and in all local and Indigenous languages, and to expedite access to affordable internet services. Similarly, the Human Rights Committee has stressed the obligation that States have to proactively put information of public interest into the public domain in order to give effect to the right of access to information.¹⁹⁷

Journalism and an independent media play an essential role in ensuring people can exercise their right of access to information, and are a key player in communicating to the public the factual situation and the measures taken by governments in response to a public health emergency, enabling individuals to exercise their rights to seek and receive information, to develop an opinion and to make decisions on matters that affect their own lives.¹⁹⁸ States must therefore ensure that journalists and other media workers can operate freely and safely, without undue restrictions or interference, and must guarantee that journalists and human rights defenders are not penalized or otherwise sanctioned for carrying out their legitimate activities.¹⁹⁹

States also need to guarantee access to the internet as a crucial platform for people to exercise their right to seek, receive and impart information of all kinds. As noted by the UN Special Rapporteur on the right to freedom of expression, the internet has become a central global public forum and is one of the leading prerequisites for the enjoyment of freedom of expression today.²⁰⁰ Similarly, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has raised the important role played by social media

¹⁹³ See article 19 of the Universal Declaration of Human Rights (UDHR); article 19 of the International Covenant on Civil and Political Rights (ICCPR); article 13 of the American Convention on Human Rights (ACHR); article 9 of the African Charter on Human and Peoples' Rights (ACHPR); and article 10 of the European Convention on Human Rights (ECHR). The right to freedom of expression and access to information is also guaranteed by article 17 of the Convention on the Rights of the Child (CRC) and article 9 of the Convention on the Rights of Persons with Disabilities (CRPD).

¹⁹⁴ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 2.

¹⁹⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 14, The Right to the Highest Attainable Standard of Health (Art. 12), UN Doc. E/C.12/2000/4, para. 3, 12(b).

¹⁹⁶ Committee on Economic, Social and Cultural Rights, Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights, UN Doc. E/C.12/2020/1, 17 April 2020, para. 18.

¹⁹⁷ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 19.

¹⁹⁸ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 23 April 2020, UN Doc. A/HRC/44/49, para. 30.

¹⁹⁹ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 46.

²⁰⁰ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 22 May 2015, UN Doc. A/HRC/29/32, para. 11.

platforms and other business enterprises in enabling the exercise of human rights, given how their legal obligations, policies, technical standards, financial models and algorithms can affect the civic space.²⁰¹ The Human Rights Council has further emphasised that measures aimed at preventing or disrupting access to the dissemination of information, including through the internet, are in violation of international human rights law.²⁰²

While States can legitimately impose restrictions on the right to freedom of expression to protect public health – or other relevant legitimate purpose under international human rights law – any restriction must meet all elements of a stringent three-part test. Firstly, the restriction must be provided by law, which must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly. Secondly, restrictions must be imposed only for the purpose of protecting specified public interests, which are limited to the protection of national security, public order, public health or morals, or the rights or reputations of others; lastly, restrictions must be demonstrably necessary and proportionate, that is the least restrictive measure to achieve the specified purpose.²⁰³

When public health is invoked as a ground for limiting the right to freedom of expression in order to allow a state to take measures dealing with a serious threat to the health of the population, measures must still be specifically aimed at a relevant legitimate purpose such as preventing the spread of or otherwise addressing a disease or providing care for the sick.²⁰⁴ States need to establish a direct and immediate connection between the expression to be restricted and the threat said to exist.²⁰⁵ Moreover, the restriction must be the least intrusive instrument among those which might achieve the desired goal.²⁰⁶

Restrictions on the right to freedom of expression that impose blanket prohibitions on the dissemination of information, including those based on vague and ambiguous concepts such as “false news” or “spreading misinformation”, are incompatible with international human rights law and standards.²⁰⁷ As stated by the UN Human Rights Committee, international law does not permit general prohibitions of expressions of an erroneous opinion or an incorrect interpretation of events.²⁰⁸ Legislation prohibiting and criminalizing “false news” also risks having a chilling effect on the general population and the media, leading to self-censorship out of fear of reprisals. As noted by the UN Special Rapporteur on the right to freedom of expression, such limitations often appear not to be imposed for the legitimate purpose of promoting accurate information on the public health emergency, but in order to suppress relevant information uncomfortable for the government or to use the situation as a pretext to crack down on opposition politicians, critical media outlets or human rights defenders.²⁰⁹

Public officials play a particular role in stemming the impact of misinformation, and it is crucial that they do not make, sponsor, encourage or further disseminate statements which they know or reasonably should know to be false or misleading. As emphasised by regional and international experts on the right to freedom of expression, public officials should take care to ensure that they disseminate reliable and trustworthy information, including about matters of public interest and public health.²¹⁰

International human rights mechanisms have further recommended that state authorities build up a reliable and prompt system of accurate information that leads to increased trust by the general public. This is essential to effectively contain the spread of a disease and avoid harmful misdirection of resources. In order for the public to have that trust, the public needs to have access to all relevant and available information. States are

²⁰¹ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 17 May 2019, UN Doc. A/HRC/41/41

²⁰² Human Rights Council Resolution 39/6, The safety of journalists, UN Doc. A/HRC/Res/39/6, para. 6

²⁰³ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 21

²⁰⁴ Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, UN Doc. E/CN.4/1984/4 (1984), para. 25.

²⁰⁵ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 35

²⁰⁶ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 35

²⁰⁷ Joint Declaration on freedom of expression and “fake news”, disinformation and propaganda. UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples’ Rights (2017), para. 2.a; Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 23 April 2020, UN Doc. A/HRC/44/49, para. 49

²⁰⁸ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 49.

²⁰⁹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 23 April 2020, UN Doc. A/HRC/44/49, para. 47

²¹⁰ Joint Declaration on freedom of expression and “fake news”, disinformation and propaganda. UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples’ Rights (2017), para. 2.d

therefore required to step up their efforts to ensure that they disseminate reliable, accessible, evidence-based and trustworthy information, including on the measures that are being taken to protect public health, which is crucial to counter false and misleading information.²¹¹ States also have an obligation to ensure an enabling environment for freedom of expression, including by promoting a free, independent and diverse communications environment which is a key means of addressing misinformation and propaganda.²¹²

States also need to ensure people can effectively exercise their right to freedom of expression without discrimination, including by protecting individuals against abuses by non-state actors.²¹³ In this sense, authorities are therefore required to prohibit and address the effects of the spread of information that amounts to advocacy of hatred that constitutes incitement to discrimination, hostility or violence, such as publicly disclosing an individual's health status with the intent of creating a real risk to their safety, security or life.²¹⁴ This does not necessarily need to be through means of criminalization, and in any event must meet all general requirements of any permissible restriction to the right to freedom of expression. Expression which falls short of the definition of advocacy of hatred, even if it is shocking, offensive or disturbing, should not be subject to criminal punishment nor any other restrictions which do not meet the principles of legality, legitimacy, necessity and proportionality.²¹⁵

States should also ensure that companies do not abuse the right to freedom of expression, including online. As called for by the UN Special Rapporteur on the promotion and protection of the right to freedom of expression, States should avoid delegating responsibility to companies as adjudicators of content, which empowers corporate judgment over human rights values to the detriment of users.²¹⁶ In this regard, states must uphold the principle that intermediaries should not be required to substantively evaluate the legality of third-party content, in line with the Manila Principles on Intermediary Liability.²¹⁷ However, companies involved in moderating online content must uphold their human rights responsibilities,²¹⁸ including by carrying out human rights due diligence and ensuring greater transparency regarding, and oversight of, content moderation practices and policies and the algorithmic systems underpinning their platforms to ensure that human rights are respected in practice.²¹⁹

²¹¹ Joint Declaration on freedom of expression and “fake news”, disinformation and propaganda, 2017 (previously cited), para. 2.d

²¹² Joint Declaration on freedom of expression and “fake news”, disinformation and propaganda, 2017 (previously cited), para. 3.a.

²¹³ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 7

²¹⁴ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 23 April 2020, UN Doc. A/HRC/44/49, para. 48

²¹⁵ Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), para. 52

²¹⁶ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 6 April 2018, UN Doc. A/HRC/38/35. See also our recommendations in *Amnesty International's position on the EU's proposed Digital Services Act and Digital Markets Act*, March 2021, [amnesty.eu/news/amnesty-international-position-on-the-proposals-for-a-digital-services-act-and-a-digital-markets-act/](https://www.amnesty.eu/news/amnesty-international-position-on-the-proposals-for-a-digital-services-act-and-a-digital-markets-act/)

²¹⁷ Manila Principles on Intermediary Liability, manilaprinciples.org/ (accessed 20 September 2021).

²¹⁸ As set out in the UN Guiding Principles on Business and Human Rights

²¹⁹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/38/35, 6 April 2018

6. RECOMMENDATIONS

States have an obligation to uphold human rights and ensure everyone is protected from the threat of the pandemic without discrimination, and that everyone is given the best possible chances of coping and recovering from its impacts on health, society and the economy. The denial or suppression of the right to freedom of expression is not a legitimate way of avoiding social panic or addressing misinformation. On the contrary, censorship and punishment is an ineffective way of dealing with the current “infodemic” we are living today because it fails to equip the public with the information they need to deal with the disease and its impacts on daily life.

Social media companies must step up their efforts to address the challenges of misinformation and abide by their responsibility to respect human rights. The way in which their services are built up and the kind of information that is prioritized on their platforms is the result of conscious decisions to support their business model. As such, it is fundamental that they take steps to minimize the harm their operations may cause or contribute to, including by transitioning to a rights-respecting business model.

While a majority of countries are starting to reopen their economies and lift physical restrictions imposed since early 2020 to counter the effects of Covid-19, the world risks reverting back to a time in which information was tightly controlled by those in power. If the international community fails to take concerted and coordinated action to ensure that restrictions on the free flow of information are equally lifted and repealed, there is an acute risk that these will become entrenched over the world and will become part of the new normal.

But the global crisis created by the outbreak of Covid-19 also presents an opportunity for states and political leaders to rebuild societies and renew the trust that many around the world have lost in government. Political leaders across the world have an opportunity to prove that they are able to bring people together to help build just and equal societies based on the respect for human rights.

Recommendations to States:

- Ensure everyone has free, unhindered and easy access to credible, reliable, objective and evidence-based information about the Covid-19 pandemic, the public health measures and the available health products, as a means to ensure the right to health and to counter false and misleading information.
- Step up efforts to disseminate reliable, accessible, evidence-based and trustworthy information, including on the measures that are being taken to protect public health and address the pandemic.
- Lift all undue restrictions on the right to freedom of expression, including the right to seek, receive and impart information about Covid-19 and refrain from imposing bans on the dissemination of information, including those based on vague and ambiguous concepts such as “false news”, “spreading misinformation”, or “spreading panic”.
- Repeal or amend laws that impose criminal penalties for those exercising their right to freedom of expression, including the right to sharing or distributing information and opinions, drop prosecutions and release all those in detention for exercising this right.
- Refrain from targeting critics or other sources of credible information with draconian measures that unduly limit the right to freedom of expression in the name of countering Covid-19 and ensure that the operation of media outlets, journalists and human rights defenders is not unduly restricted and

allow them to continue their work. Journalists and human rights defenders must not be penalized or otherwise sanctioned for carrying out their legitimate activities.

- Guarantee reliable and unfettered access to the internet, and refrain from adopting measures weakening or undermining the necessary means for people to be able to protect their privacy online.
- Adopt adequate frameworks, in line with their human rights obligations, to address the pernicious effects of false or misleading information that could compromise the right to health. In this regard, states must ensure that they disseminate credible, reliable, accessible, objective and evidence-based information, including to address false or misleading information related to Covid-19 health products.
- Legally require technology companies to carry out human rights due diligence to identify and address human rights impacts related to their global operations, including risks and abuses linked to their algorithmic systems or arising from their business model as a whole.
- Enact and enforce strong digital regulation, including a ban on surveillance advertising that relies on invasive tracking and the processing of personal data; independent oversight over the algorithmic recommendation systems used by online platforms and require these to be profiling-free by default; and measures to ensure people can practically choose rights-respecting alternatives to online platforms.
- Refrain from imposing duties on social media companies to proactively monitor online content or intermediary liability regimes that incentivize overbroad censorship.

Recommendations to companies:

- Social media companies involved in facilitating and moderating online content must uphold their human rights responsibilities by engaging in human rights due diligence, including to address risks arising from their business model, and taking concrete action to respond to the dissemination of false or misleading information.
- Social media and other media companies involved in moderating online content must ensure greater transparency regarding content moderation practices and policies, as well as the algorithmic systems underpinning their platforms. This must include enabling third parties to scrutinise and assess the functioning of the platforms and their underlying algorithmic systems.

7. FURTHER READING

A SELECTION OF AMNESTY'S OUTPUTS ON COVID-19

Amnesty International, *A Double Dose of Inequality: Pharma Companies and the Covid-19 Vaccines Crisis*, (Index: POL 40/4621/2021), 22 September 2021, [amnesty.org/en/documents/pol40/4621/2021/en/](https://www.amnesty.org/en/documents/pol40/4621/2021/en/)

Amnesty International, *Vaccines in the Americas, Ten human rights musts to ensure health for all*, (Index: AMR 01/3797/2021), 25 March 2021, [amnesty.org/en/documents/amr01/3797/2021/en/](https://www.amnesty.org/en/documents/amr01/3797/2021/en/)

Amnesty International, *COVID-19 crackdowns: Police abuse and the global pandemic* (Index: ACT 30/3443/2020, 17 December 2020) [amnesty.org/en/documents/act30/3443/2020/en/](https://www.amnesty.org/en/documents/act30/3443/2020/en/)

Amnesty International, *A Fair Shot: Ensuring universal access to COVID-19 diagnostics, treatments and vaccines* (Index: POL 30/3409/2020), 8 December 2020, [amnesty.org/en/documents/pol30/3409/2020/en/](https://www.amnesty.org/en/documents/pol30/3409/2020/en/)

Amnesty International, *Daring to stand up for human rights in a pandemic* (Index: ACT 30/2765/2020), 5 August 2020, [amnesty.org/en/documents/act30/2765/2020/en/](https://www.amnesty.org/en/documents/act30/2765/2020/en/)

Amnesty International, *Exposed, silenced, attacked: failures to protect health and essential workers during the COVID-19 pandemic* (Index: POL 40/2572/2020), 12 July 2020, [amnesty.org/en/documents/pol40/2572/2020/en/](https://www.amnesty.org/en/documents/pol40/2572/2020/en/)

Americas: *The Cost of Curing: Health workers' rights in the Americas during COVID-19 and beyond* (Index: AMR 01/2311/2020), 19 May 2020, [amnesty.org/en/documents/amr01/2311/2020/en/](https://www.amnesty.org/en/documents/amr01/2311/2020/en/)

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SILENCED AND MISINFORMED

FREEDOM OF EXPRESSION IN DANGER DURING COVID-19

The right to freedom of expression has been attacked globally in the context of the Covid-19 pandemic and increased the dangers posed by the public health crisis. Freedom of expression is vitally important because a free flow of accurate, evidence-based and timely information increases awareness about health risks and how to prevent and deal with them. However, governments have put up barriers to activities like reporting and sharing opinions and used the pandemic as a pretext to muzzle critical voices. Amnesty International is concerned that Covid-19 related restrictions are not just temporary measures but are part of an ongoing onslaught on human rights and civic space.

In addition, misinformation on different aspects of the pandemic has contributed to behaviours such as vaccine hesitancy. The overabundance of false and misleading information, facilitated by social media platforms, makes it harder than ever for individuals to form a fully informed opinion and make choices about their health based on the best available scientific facts.

The report ends with a list of recommendations, urging States to stop using the pandemic as an excuse to silence independent reporting, debate and scrutiny and urgently lift all undue restrictions as a key approach to protecting the right to health and enabling an inclusive recovery. States should also provide credible, reliable, accessible, objective and evidence-based information, enable independent, public interest journalism and independent civil society, and engage diverse communities. Amnesty International urges social media companies to also take measures to address the viral spread of misinformation, including by improving the transparency and oversight of their business practices, policies and procedures.

The solutions to the huge problems created by the pandemic are out there: enabling the full enjoyment of freedom of expression is key in finding them.