



2021:

FUNDAMENTAL
FREEDOMS IN
SOUTH ASIA

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2021: FUNDAMENTAL FREEDOMS IN SOUTH ASIA

Civic space is under attack in South Asia. Across the region, increasingly authoritarian governments are relying on a wide range of repressive laws and other tactics to silence criticism, a trend that only intensified in 2021. While the Taliban's takeover of Afghanistan is the starkest example of this, almost all other countries saw alarming restrictions imposed on fundamental freedoms over the past year, while governments often used COVID-19 as a pretext for authoritarian policies and actions. Despite this, journalists, human rights defenders, and rights activists are bravely continuing to carry out their crucial work, often at great risk to their and their family's liberty and security.

This briefing by the **Asian Forum for Human Rights and Development (FORUM-ASIA)** provides an overview of civic space on the South Asian subcontinent in 2021, covering key trends and developments in seven countries: Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan, and Sri Lanka.

The Taliban's seizure of power in **Afghanistan** on 15 August dominated global headlines the year. Despite the Taliban promising to respect human rights standards, it moved quickly to impose sweeping and arbitrary restrictions on women's and girls' rights, as well as to the media and civil society sectors. The Taliban beat and arrested dozens of journalists, often for covering women-led protests. Women human rights defenders, judges, and journalists described living in terror as the Taliban conducted house-to-house searches for prominent activists and raided female-led NGOs.

Other countries also saw a continued and growing assault on fundamental freedoms, with increasingly authoritarian governments often mirroring each other's tactics. Several countries relied on anti-terror and sedition laws to restrict the work of media and civil society. In **Sri Lanka**, for example,

the government expanded the abusive Prevention of Terrorism Act 1979, while in **India** the death in custody of an elderly tribal rights activist sparked outrage and calls for the repeal of the Unlawful Activities (Prevention) Act 1967.

Worryingly, several governments used the COVID-19 pandemic as an excuse to restrict civic space or level trumped-up charges against critics. In **Bangladesh**, authorities relied on the draconian Digital Security Act 2018 to arrest or question scores of people criticising the response to the pandemic, while countries including **Maldives** and **Sri Lanka** used COVID-19 regulations as a pretext to restrict and crack down on peaceful protests.

South Asian States in 2021 intensified attempts to control public debate online, using new and existing

repressive laws and policies to restrict freedom of expression and bring exaggerated charges against critics. **Pakistan** introduced new guidelines that imposed sweeping restrictions on online content while requiring messaging apps to share user data without judicial oversight. **India** in 2021 ordered more internet shutdowns than any other country in the world, and continued to prosecute journalists and rights defenders over social media posts.

The right to peaceful protest was heavily restricted across the region. In **Nepal**, police used excessive force when thousands took to the streets against two arbitrary dissolutions of parliament by the government, while in **India** authorities levelled fabricated charges against leaders of the hundreds of thousands of farmers who descended on Delhi to protest new farming legislation.

Recommendations

The assault on fundamental freedoms across South Asia must end immediately. FORUM-ASIA urges governments in the region to immediately take the following steps to this effect (further recommendations in country chapters):

Freedom of expression

- » End all forms of harassment, including judicial harassment of journalists, human rights defenders, civil society activists and others simply for exercising their right to freedom of expression. Cease and ensure all acts of intimidation and targeted attacks on women, gender, sexual, religious and ethnic minorities are held to account.
- » Immediately and unconditionally drop charges against and release anyone indicted or detained for exercising their rights to peaceful expression.
- » Ensure that domestic legal frameworks align with international human rights obligations on protecting freedom of expression. Immediately reform or repeal any laws that are used to arbitrarily restrict freedom of expression. End all efforts to criminalize or otherwise punish legitimate and peaceful criticism of the response to the COVID-19 pandemic.

- » End all efforts to place undue restrictions on freedom of expression online, including through regulations requiring internet service providers, online media outlets or social media companies to regulate content or share user data in a manner that violates the right to privacy.
- » Work with social media companies and other relevant actors to better monitor and reduce online harassment, including of human rights defenders, with a particular focus on misogynist harassment. Ensure that perpetrators of online harassment are held to account.
- » Ensure that perpetrators of attacks against journalists, including threats, harassment, physical attacks and killings, are held to account through fair and impartial judicial processes that match international standards.

Freedom of association

- » Create an enabling environment for civil society, including by ensuring that the domestic legal framework facilitates the work of non-government organisations and allows them to work free of reprisals or undue political interference. Immediately cease all targeted attacks on networks or NGOs led by women, gender, sexual, religious and ethnic minorities.
- » Immediately reform or repeal any laws that govern the civil society sector to match international standards on the right to freedom of association, including laws that create undue bureaucratic burdens or arbitrarily limits access to foreign funding.
- » Ensure that human rights defenders (HRDs) can carry out their crucial work without fear of reprisals, including by holding perpetrators of attacks to account and establishing national protection mechanisms for HRDs that are effective and well-resourced.

Freedom of assembly

- » Create an enabling environment for peaceful protests, including by ensuring that domestic legal frameworks facilitate the right to organise and take part in peaceful demonstrations.
- » Ensure that any restrictions placed on public gatherings in response to the COVID-19 pandemic are necessary and proportional, match international human right standards, and are not used as a pretext to unduly restrict the right to freedom of assembly.

Creating a regional human rights mechanism

- » South Asian States should collaborate to share best practices on how to create an enabling environment for civic space in the region, including through legal reform and the establishment of well-resourced and effective protection mechanisms.
- » South Asian States should establish a regional human rights mechanism, whose charter is founded in international human rights law and standards, and with the capacity to effectively investigate complaints of human rights violations.

AFGHANISTAN

Introduction

The Taliban takeover of Afghanistan on 15 August worsened the already severe human rights crisis in the country. Despite promises to respect civic freedoms, the Taliban regime has imposed sweeping and arbitrary restrictions on women's access to education and employment, as well as the media and civil society sectors. Women human rights defenders, judges, and journalists live in terror as the Taliban have conducted house-to-house searches for high-profile activists, while raiding offices of women-led NGOs. The Taliban have beaten, arrested and harassed scores of journalists, often in the context of covering women-led protests against the regime.

Fundamental freedoms were under assault during the previous government of Ashraf Ghani. Armed groups led a campaign of targeted killings against journalists, activists and others, which began after the US-Taliban deal in 2020 and intensified as the US troop withdrawal drew closer. Authorities took few steps to hold those responsible to account, and sought to increase their control of the media sector.

Freedom of expression

The Taliban regime has imposed severe and sweeping restrictions on media since seizing outright control of the vast majority of Afghanistan on 15 August, while arresting and violently attacking dozens of journalists. In October, Human Rights Watch reported on new media regulations imposed by the Taliban regime, which prohibits coverage that is "contrary to Islam" or those that "insult national figures". Such sweeping restrictions violate international standards on freedom of expression and are likely to lead to widespread self-censorship in the media.

On 9 August, for example, members of the Taliban kidnapped the Gharghasht TV reporter Nematullah Hemat and separately killed Toofan Omar, owner

of the private station Paktia Ghag Radio.¹ On 25 August, Taliban fighters beat ToloNews reporter Ziar Khan Yaad in Kabul. Taliban fighters hunting a Deutsche Welle reporter, who has since fled to Germany, reportedly killed one member of his family and injured another.² Such attacks have continued in recent weeks despite their commitments to respect the independence of the media. Taliban fighters on 25 October assaulted freelance reporter Sadaqat Ghorzang while he reported from the Torkham border.³ A few days later on 28 October, Taliban members separately beat Zahidullah Husainkhil with assault rifles in Logar province. On 26 September, gunmen claiming to be Taliban members entered and threatened staff at the office of radio station Salam Watandar in Kabul.⁴

Several journalists have also been arrested or attacked after covering protests against the Taliban regime. During 6-8 September, the Taliban arrested and then released at least 14 media workers who covered protests in Kabul; at least nine of the journalists were beaten during their arrest or detention.⁵ Taliban arrested the freelance photographer Morteza Samadi after he covered a protest in Herat on 7 September; he was released on 30 September.

The Taliban have singled out women journalists for threats and harassment. Restrictions imposed by the Taliban or fear of reprisals have forced many

women media workers out of their jobs, reflecting a wider situation of women gradually disappearing from public life since the Taliban takeover. According to Reporters without Borders, fewer than 100 of Kabul's 700 female journalists were still working by 1 September 2021.⁶ The Afghanistan Journalist Safety Committee reported that 14 female journalists were threatened or violently attacked in 2020, among them Malala Maiwand, a female TV reporter with Enikass News, who was shot dead by gunmen in Jalabad in December 2020.⁷ Three other female staff of Enikass News were killed in March 2021 by unidentified gunmen.⁸ The Afghanistan Journalists Center documented a sharp increase in attacks on journalists since talks between the Taliban and the government began, resulting in 11 killings of media workers between February 2020 and March 2021.⁹

Freedom of association

Women's human rights defenders reported that following the collapse of the previous government, the Taliban had conducted searches in cities including Herat and Kabul for high-profile women activists and civil society workers. Several reported seeing or hearing of lists compiled by the Taliban with names of prominent women human rights defenders.¹⁰ Women activists told media that they were increasingly afraid of protesting, reporting that the Taliban had infiltrated their groups and harassed and warned them against protesting.¹¹ CIVICUS

1 <https://www.reuters.com/world/asia-pacific/taliban-kill-afghan-radio-station-manager-kidnap-journalist-officials-2021-08-09/>

2 <https://www.dw.com/en/relative-of-dw-journalist-killed-by-the-taliban/a-58912975>

3 <https://cpj.org/2021/10/taliban-fighter-beats-freelance-journalist-sadaqat-ghorzang-at-afghanistan-pakistan-border-crossing/>

4 <https://cpj.org/2021/09/gunmen-forcibly-enter-office-of-salam-watandar-broadcaster-in-afghanistan/>

5 <https://cpj.org/2021/09/taliban-fighters-detain-flog-and-beat-journalists-covering-protests-in-afghanistan/>

6 <https://www.theguardian.com/world/2021/sep/01/afghanistan-only-handful-of-female-journalists-still-working>

7 <https://www.bbc.com/news/world-asia-55256427>; <https://ajsc.af/211/ajsc-2020-annual-report>

8 <https://tolonews.com/afghanistan/attack-mediajournalists-170414>

9 <https://www.forum-asia.org/?p=34150>

10 <https://www.hrw.org/news/2021/09/23/afghanistan-taliban-abuses-cause-widespread-fear>; <https://www.pbs.org/newshour/show/taliban-interrogating-women-activists-creating-a-climate-of-fear-and-intimidation>

11 https://www.theguardian.com/global-development/2021/nov/04/they-stayed-to-fight-the-taliban-now-the-protesters-are-being-hunted-down?CMP=Share_iOSApp_Other

further reported that Taliban had been conducting raids on women-led NGOs across the country, in some cases even sealing their offices.¹²

On 7th September 2021, a staff member of a Kabul-based NGO was arrested by the Taliban, whipped and severely beaten. On 11th September, the Taliban forces reportedly broke into the house of Fahima Rahmati, a local female activist in Kandahar Province, and beat her family members.¹³ Taliban claimed responsibility for the killing on 22 July of the popular Kandahari comedian Nazar Mohammad.¹⁴ The Taliban regime has imposed strict and arbitrary limitations on women's ability to access employment, including the NGO sector. According to Human Rights Watch, in at least half of the country's 34 provinces women aid workers face severe restrictions that makes it "difficult or impossible" for them to do their jobs.¹⁵

Rights groups criticised the UN Human Rights Council after a special session on Afghanistan in August resulted in a resolution that failed to establish a human rights monitoring mechanism or adequately respond to the escalating crisis in the country.¹⁶ On 7 October, however, the UN Human Rights Council passed a resolution to appoint a new Special Rapporteur to monitor the situation of human rights in Afghanistan for one year.¹⁷

Even before the Taliban takeover, human rights groups highlighted a continued pattern of targeted killings against human rights defenders, journalists,

judges, government officials. According to the Afghan Human Rights Defenders Committee, a total of 17 human rights defenders were killed between September 2020 and May 2021. Hundreds of other activists reported receiving threats aimed at silencing their work.¹⁸ A Joint Commission for the Protection of Human Rights Defenders, established by the government in December 2020, took little meaningful action during its first months of operation.¹⁹

Afghanistan remains one of the most dangerous countries in the world for aid workers, with researchers documenting at least 10 major attacks in 2021.²⁰ In June, the Islamic State (IS) claimed responsibility for an attack killing 10 demining workers with the NGO Halo Trust in Baghlan province.²¹

Freedom of assembly

The Taliban have violently dispersed protests since seizing power while imposing arbitrarily restrictions on the right to freedom of assembly. After the Taliban's takeover, protesters took to the streets in several cities across the country, often led by women who demonstrated against severe new restrictions on their access to education and employment. On 4 September, Taliban security forces beat at least 10 women who took part in a 100-strong protest outside the former presidential palace in Kabul.²² Women reported being lashed with whips and

12 <https://monitor.civicus.org/updates/2021/09/15/activists-and-journalists-risk-crackdown-protests-afghanistan-following-taliban-takeover/>

13 <https://monitor.civicus.org/updates/2021/10/21/ongoing-threats-and-attacks-against-civil-society-media-afghanistan-while-protests-restricted/>

14 <https://www.aljazeera.com/news/2021/7/29/taliban-admit-to-killing-afghan-comic-zwan>

15 <https://www.hrw.org/news/2021/11/04/afghanistan-taliban-blocking-female-aid-workers>

16 <https://www.forum-asia.org/?p=35724>

17 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27627&LangID=E>

18 <https://www.forum-asia.org/?p=34896>

19 <https://www.amnesty.org/en/latest/press-release/2021/03/afghanistan-authorities-must-deliver-on-pledge-to-protect-activists-amid-surge-of-attacks/>

20 <https://aidworkersecurity.org/incidents>

21 <https://www.npr.org/2021/06/09/1004902456/an-overnight-attack-on-mine-clearance-workers-in-afghanistan-leaves-10-dead>

22 <https://www.hrw.org/news/2021/09/07/afghan-women-protest-against-taliban-restrictions>

beaten with electric batons.²³ Several similar attacks were reported, including on 7 September when two men were shot and killed, and seven others wounded, during a protest in Herat.²⁴

On 7 September, the Taliban announced that all demonstrations were banned unless approved in

advance by the Ministry of Justice, while several journalists reported that Taliban officials had told them that reporting on protests was also illegal.²⁵ Despite the ban and violent crackdown on protests, small groups of women have continued to protest in different cities during September and October.²⁶

Recommendations for Afghanistan

- » Immediately withdraw, repeal or amend to meet international standards all regulations and laws that place arbitrary restrictions on media and civil society, in particular those that arbitrarily limit the ability of women and girls to take part in public life, education or access employment.
- » Immediately withdraw, repeal or amend to meet international standards all regulations and laws that arbitrarily restrict the right to peaceful and assembly. Refrain from arbitrarily preventing women activists and others peacefully protesting, or restricting media covering such protests
- » End all harassment, threats and physical attacks against human rights defenders, activists, civil society workers, media workers and others, and hold those responsible for such attacks to account through judiciary processes that meet international standards.
- » Cooperate with all international human rights mechanisms openly and transparently, including with the office of the UN Special Rapporteur on the situation of human rights in Afghanistan.

23 <https://www.bbc.com/news/world-asia-58491747>

24 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27445&LangID=E>

25 <https://www.hrw.org/news/2021/09/08/afghanistan-taliban-severely-beat-journalists>

26 <https://monitor.civicus.org/updates/2021/10/21/ongoing-threats-and-attacks-against-civil-society-media-afghanistan-while-protests-restricted/>

BANGLADESH

Introduction

Civic space remains extremely restricted in Bangladesh as the Awami League government under Prime Minister Sheikh Hasina has used threats, judicial harassment, detention and even extrajudicial killings against a range of critics, including journalists, human rights defenders, activists and trade unionists. Since 2020, authorities have levelled trumped-up charges against hundreds of individuals who have criticised the government's handling of the COVID-19 pandemic, often relying on the draconian Digital Security Act (DSA). The death in custody of writer Mushtaq Ahmed in February sparked protests and renewed calls for the repeal of the DSA, which the government has so far refused to heed.

Freedom of expression

The human rights organisation Ain O Salish Kendra (ASK) documented 154 attacks against media workers between January and September 2021.¹ The government continued to use the COVID-19 pandemic as a pretext to crack down on freedom of expression, often relying on the Digital Security Act (DSA) to charge critics. The DSA is a vaguely worded piece of legislation that criminalizes a wide range of activities that could be perceived as critical of authorities, and could lead to a prison sentence of up to five years and/or a fine. Cases under the DSA have rocketed since it was enacted in 2018: more than 1,000 people were charged or investigated under the law in 2020, while at least 447 cases were filed just in the first two months of 2021.² According to Amnesty International, at least 443 people had been imprisoned under the DSA as of July 2021.³ Writer and blogger Mushtaq Ahmed arrested under DSA and held in custody for over nine months died in prison in February. He was arrested in May 2020

1 <https://www.dhakatribune.com/bangladesh/2021/10/01/journalist-murdered-154-others-harassed-in-nine-months>

2 <https://www.dhakatribune.com/bangladesh/court/2021/03/06/lone-tribunal-struggles-with-skyrocketing-cybercrime-cases>

3 <https://www.amnesty.org/fr/documents/asa13/4294/2021/en/>

for sharing a cartoon on Facebook criticising the government's handling of the pandemic. OHCHR expressed concern over the police's alleged use of force during protests demanding justice for Mushtaq's death, which resulted in seven deaths and 35 people sustaining injuries.⁴ Cartoonist Ahmed Kabir Kishore, who had been arrested and charged under the DSA at the same time, was released on bail in March 2021. He told the media he had been tortured and denied medical care in detention, causing his ear drum to burst.⁵

Scores of other individuals, including a minor, were arrested under DSA in 2021. On 21 March, police arrested a 17-year-old boy in Thakurgaon district after he posted a video online which allegedly "defamed" Prime Minister Sheikh Hasina and others.⁶ It was not the first time the DSA had been used against children as a 14-year-old boy was arrested in 2020 for allegedly defaming the Prime Minister in a Facebook post.⁷

Michel Bachelet, UN High Commissioner for Human Rights, called on Bangladeshi authorities to "overhaul" the DSA in light of Mushtaq Ahmed's death.⁸ The government has, however, resisted calls to reform or repeal the DSA, and instead approved plans to establish cybercrime tribunals in all districts of the country to better handle the rapidly increasing number of cases under the law.⁹

Rozina Islam, a reporter with the newspaper *Prothom Alo*, was arrested on 19 May and charged under Articles 3 and 5 of the Official Secrets Act and

Articles 379 and 411 of the penal code for "putting a person in fear of injury in order to commit extortion" and concealing stolen documents. She was released on bail on 23 May but could face up to 14 years in prison and the possibility of the death penalty if found guilty. The arrest was an act of reprisal against her reporting on alleged corruption in the Bangladeshi health system, in particular in the context of the pandemic. On 11 August, the Bangladesh Financial Intelligence Unit (BFIU), a government agency that deals with terrorism financing and money laundering, launched an investigation into Islam's finances, a move criticised by human rights groups as harassment.¹⁰

In 2021, the government reportedly restricted access inside Bangladesh to YouTube channels and websites run by exiled government critics abroad, as well as foreign news outlets such as the Indian website Scroll.¹¹ Rights groups have further highlighted how family members of foreign-based journalists were harassed or even arrested in Bangladesh in 2021, while the government launched smear campaigns and levelled trumped up charges against exiled media workers.¹²

Authorities have also harassed journalists covering Bangladesh's treatment of Rohingya refugees. On 30 December, police in Cox's Bazar arbitrarily arrested the Rohingya photographer Abul Kalam when he was covering a transfer of Rohingya refugees to Bhasan Char Island. He was released on bail on 3 December but could face up to three years in prison

4 <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=26815&LangID=E>

5 <https://www.thedailystar.net/frontpage/news/scars-torture-all-over-him-2055265>

6 <https://www.aa.com.tr/en/asia-pacific/bangladesh-arrests-teen-for-defaming-premiers/2183493>

7 <https://www.thedailystar.net/dsa-violations-ninth-grader-lands-in-juvenile-centre-1918693>

8 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26815&LangID=E>

9 <https://www.dhakatribune.com/bangladesh/court/2021/03/06/lone-tribunal-struggles-with-skyrocketing-cybercrime-cases>; <https://bdnews24.com/bangladesh/2021/03/05/decision-on-digital-security-act-in-a-few-days-says-law-minister>

10 <https://rsf.org/en/news/financial-probe-latest-form-harassment-bangladeshi-reporter>

11 <https://medium.com/@NetraNews/indian-news-website-scroll-forced-off-line-over-article-on-bangladesh-government-adviser-gowher-55ff4d49d73c>; <https://netra.news/2021/copyrighted-by-the-bangladesh-state-1726>

12 <https://rsf.org/en/news/alarms-offensive-bangladeshs-ruling-party-against-journalists-based-abroad>; <https://netra.news/2021/centre-for-disinformation-2164>

on charges of assaulting and obstructing the work of public servants.¹³ In August, authorities reportedly harassed two Rohingya journalists who reported on protests over food rations in the refugee camps, causing them to go into hiding.¹⁴

Freedom of association

Judicial harassment of civil society organisations continued. In October, the Dhaka Cyber Tribunal resumed the trial against Adilur Rahman Khan and ASM Nasiruddin Elan, respectively the Secretary and Director of the human rights organisation Odhikar. The case dates to 2013 when Khan and Elan were arrested after Odhikar published a report on extrajudicial killings by security forces in Bangladesh. They were subsequently charged under Section 57 of the Information and Communication Technology (ICT) Act, which was frequently used against government critics until it was replaced by the DSA in 2018. Human rights groups have documented numerous fair trial violations in the case.¹⁵

Freedom of assembly

The visit of Indian Prime Minister Narendra Modi to Bangladesh in March 2021 triggered protests across the country that were met with a violent response by the authorities. According to the Asian Human Rights Commission, members of the security forces and the Chattra League, the youth wing of the ruling Awami League party, unleashed violence against protesters in different parts of the country, resulting in scores of injuries. Human rights organisations documented at least 14 people were killed during protests between 26 and 28 March.¹⁶ At least 17 journalists, a majority of them photographers, were injured, as demonstrators and police used rubber bullets and hit journalists with sticks, iron rods and other instruments. In the aftermath of the protests, at least five opposition activists were allegedly abducted by members of law enforcement agencies - although eventually released - in conditions that could amount to enforced disappearances. Several people arrested during the protests reported having been subjected to torture or ill-treatment in custody. As illustrated above, in February and March, the death in custody of Mushtaq Ahmed triggered widespread protests in Dhaka and elsewhere, leading to the use of excessive force by police.

13 <https://rsf.org/en/news/bangladesh-rohingya-photographer-charged-after-covering-rohingya-refugee-transfer>

14 <https://cpj.org/2021/08/bangladesh-authorities-harass-threaten-two-rohingya-journalists/>

15 <https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-judicial-harassment-of-adilur-rahman-khan-and-asm>

16 <https://www.amnesty.org/en/latest/news/2021/04/bangladesh-protests-statement/>

Recommendations to the Government of Bangladesh:

- » Ensure an independent, impartial and transparent investigation that meets international standards into the death in custody of Ahmed Mushtaq, as well all other cases of alleged torture and ill-treatment in detention, and that those responsible are held to account.
- » Immediately and unconditionally release from detention or drop charges against anyone targeted simply for exercising their right to peaceful freedom of expression, including Rozina Islam and other media workers charged for carrying out their legitimate work.
- » Commit to repealing the Digital Security Act or reforming it significantly to meet international standards. Immediately cease the use of the Digital Security Act against those peacefully exercising their right to freedom of expression online, including in the context of criticism of the official COVID-19 response.

INDIA

Introduction

The ruling Bharatiya Janata Party (BJP) led a far-reaching crackdown against critics in 2021, often relying on anti-terror and sedition laws to target journalists, human rights defenders, and civil society actors. The government intensified efforts to control speech on the internet, including by introducing restrictive new regulations targeting social media companies and online news outlets. Human rights groups demanded an investigation into the government's use of surveillance software after a news outlet revealed that a notorious piece of spyware had been used against journalists and human rights defenders. Police used excessive force against farmers protesting in Delhi against new legislation, while authorities levelled trumped-up charges against protest leaders, journalists and other activists.

The government amended a draconian law used to silence CSOs receiving foreign funding to make it even more restrictive. The death in custody of an elderly tribal rights activist in July sparked outrage and renewed calls to repeal the Unlawful Activities (Prevention) Act (UAPA), India's main anti-terrorism law.

Freedom of expression

Authorities continued to harass and muzzle a range of individuals who criticised their handling of the COVID-19 pandemic, which severely spiked in April and May 2021. The government ordered more than 100 social media posts to be taken down, while the Chief Minister of Uttar Pradesh threatened to charge anyone spreading "rumours" about COVID-19 under sedition.¹ Journalist Kishorechandra Wangkhem and activist Erendro Leichomban were charged and briefly detained under the National Security Act in July 2021 after criticising the official response to the pandemic

¹ <https://www.thehindu.com/news/national/govt-asks-social-media-platforms-to-remove-100-covid-19-related-posts/article34406733.ece>

on social media.² In a positive move, the Supreme Court in April warned police that any attempts to clamp down on COVID-19 information online would be treated as contempt of court.³

The government is increasingly seeking to restrict freedom of expression online. In February, authorities announced the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, a set of regulations under the Information Technology Act. The regulations impose broad restrictions on content on social media platforms and online news outlets, while imposing an onerous self-regulating mechanism that must be reported to the Ministry of Information and Broadcasting. In May, the messaging app WhatsApp filed a lawsuit against the Indian government, stating that the regulations are in violation of India's constitution.⁴

As part of an international investigation by journalists and human rights groups, the media outlet *The Wire* revealed that invasive Pegasus spyware software had been used against at least 300 phone numbers – including of journalists and human rights activists – in India.⁵ Among them were lawyers and human rights defenders in the Bhima Koregaon case.⁶ Human rights groups and opposition parties demanded an independent investigation into the BJP government's use of surveillance software. Five Indian journalists have filed a complaint with prosecutors in Paris against NSO Group, the Israeli firm behind Pegasus.⁷

India continued to order more internet shutdowns than any other country in the world. As of November, the authorities had ordered 43 shutdowns in 2021. On 6 February, the world's longest-ever internet shutdown (552 days) in Jammu and Kashmir ended in full when the government allowed the resumption of 4G services.⁸ On 1 September, however, authorities again temporarily shut down internet and mobile data services in Kashmir valley following the death of Kashmiri leader Syed Ali Shah Geelani.

Freedom of association

The Unlawful Activities (Prevention) Act (UAPA), India's main anti-terrorism law, continued to be used unlawfully against human rights defenders and political dissidents. In February, police charged three men under the UAPA for allegedly using "anti-government slogans" in Tamil Nadu. Also in February, police in Kashmir charged seven people under the UAPA after they organised a demonstration to demand the return of the body of a 16-year-old boy who was killed by security forces in 2020. On 22 November, police arrested the prominent Kashmiri human rights activist Khurram Parvez under UAPA evoking calls from OHCHR his immediate release.⁹

The death in custody of Father Stan Swamy, 74-year-old tribal rights activists, sparked outrage and renewed calls for the UAPA's repeal. Swamy was detained under the law in October 2020 along with 15 other people for inciting terror and violence against the State, a baseless accusation often used by authorities against those advocating for the human

2 <https://thewire.in/media/manipur-journalist-kishorechandra-wangkhem-jailed-nsa-cow-dung-covid-19-released>

3 <https://www.thehindu.com/news/national/dont-clampdown-dissemination-of-information-on-covid-19-supreme-court-tells-centre-states/article34447671.ece>

4 <https://www.reuters.com/world/india/exclusive-whatsapp-sues-india-govt-says-new-media-rules-mean-end-privacy-sources-2021-05-26%20/>

5 <https://thewire.in/government/project-pegasus-journalists-ministers-activists-phones-spying>

6 <https://www.thequint.com/news/india/pegasus-spyware-used-for-friends-and-families-of-bhima-koregaon-accused-report#read-more>

7 <https://monitor.civicus.org/updates/2021/09/15/indian-government-snooping-row-sparks-outrage-restrictions-civic-freedoms-persist/>

8 <https://internetshutdowns.in/>

9 <https://www.aljazeera.com/news/2021/12/1/un-calls-for-release-of-kashmir-rights-defender-khurram-parvez>

rights of tribal groups. He died in prison following health complications induced by COVID-19. Rights groups had previously highlighted how he was denied adequate medical care in detention and was repeatedly denied request for bail on health grounds.¹⁰ In April, a digital forensics firm issued separate reports detailing how the laptop of Rona Wilson, another human rights defender arrested in the case, was hacked into to plant incriminating evidence against him, Sudha Bharadwaj, Varavara Rao and other human rights defenders.¹¹ The fabricated evidence was used by authorities to bring charges against 16 activists.

Authorities amended the Foreign Contribution (Regulation) Act, a draconian law often used to silence or even shut down NGOs that receive foreign funding, to make it even more restrictive. In September 2020, the law was amended in several ways, including by mostly banning sub-granting (which will have a particularly negative effect on smaller NGOs), allowing authorities to freeze assets on extremely vaguely worded grounds, while requiring all NGOs receiving foreign funds to use a dedicated account with the State Bank of India in the country's capital, Delhi.¹² New guidelines issued by the Ministry of Home Affairs in January 2021 further require all banks to treat "any foreign source even if that source is located in India at the time of such donation" as "foreign contribution".¹³ Bureaucratic delays during the pandemic prevented nearly 13,000 NGOs from opening an account, hampering and restricting their operations.¹⁴

In March, the government directed Niti Aayog – a public policy think tank formed by the government – to develop a new policy to regulate CSOs, raising concerns that authorities will seek to tighten their grip on the sector further.¹⁵

Freedom of assembly

Hundreds of thousands of farmers, mainly from the states of Punjab, Haryana and Uttar Pradesh, started gathering outside of Delhi in November to demand the withdrawal of newly-introduced agricultural laws. The protests were overwhelmingly peaceful until 26 January (India's Republic Day) when police used excessive force, including batons and teargas, against demonstrators who broke through police barriers that had been erected to arbitrarily prevent protesters from entering Delhi.¹⁶ One protester died in the violence and at least 122 people were arrested in connection with the protests.

Authorities also targeted protest leaders with fabricated charges, even as they denounced the violence. On 28 January, police issued first information reports against 37 farmer leaders, including the prominent social activists Medha Patkar and Yogendra Yadav, baselessly accusing them of incitement, murder and other crimes.¹⁷ At least eight journalists who covered the protests also faced trumped-up charges. Among these were six senior journalists and editors who in the days after the protests faced several charges, including sedition, filed by police in four BJP-ruled states.¹⁸ Authorities further used Section 69A of the Information

10 <https://www.thehindu.com/news/national/court-rejects-bail-plea-of-stan-swamy/article32932596.ece>

11 <https://www.washingtonpost.com/world/2021/07/06/bhima-koregaon-case-india/>

12 <https://www.forum-asia.org/?p=33160>

13 <https://www.thehindu.com/news/national/india-tightens-oversight-on-funds-received-by-ngos/article33699682.ece>

14 <https://forum-asia.org/hrlaw/wp-content/uploads/2021/07/Summary-of-the-Repressive-Laws-April-June-2021-1.pdf>

15 <https://indianexpress.com/article/india/niti-group-works-on-new-policy-to-regulate-civil-society-groups-member-says-for-healthy-partnership-with-govt-7242060/>

16 <https://www.theguardian.com/world/2021/jan/26/violent-clashes-as-indian-farmers-storm-delhis-red-fort>

17 <https://scroll.in/latest/985350/farm-laws-stir-delhi-police-issue-lookout-notices-against-farmer-leaders-named-in-tractor-rally-fir>

18 <https://www.hrw.org/news/2021/02/02/india-journalists-covering-farmer-protests-charged>

Technology Act to pressure Twitter to suspend more than 1,000 accounts, including from national news outlets, since they had allegedly spread false information about the farmers' protests.¹⁹ Twitter initially complied but then changed its decision, stating that the suspensions would violate the "fundamental right to free expression under Indian law".

Women protesters were sometimes singled out for harassment or abuse. After Chief Justice S.A. Bobde

in January said female and elderly protesters should return to their homes, women's activists accused him of sexism and of denying the prominent role played by women in the movement.²⁰ On 14 February, authorities arrested Disha Ravi, a 21-year-old climate change activist, and accused her of sedition and criminal conspiracy because she had shared a toolkit online on how to peacefully support the farmers' protests.²¹

Recommendations to the Government of India

- » Immediately and unconditionally release and drop charges against anyone detained or charged simply for exercising their right to freedom of expression, including all human rights defenders falsely charged under Unlawful Activities (Prevention) Act 1967.
- » Immediately take steps to repeal or revise to meet international standards legislation used to restrict fundamental freedoms and to target media workers and human rights defenders and others for carrying out their legitimate work, including the Unlawful Activities (Prevention) Act 1967 and the Information Technology Act 2000.
- » Ensure that the online sphere is an enabling environment for freedom of expression and immediately end all attempts to restrict fundamental freedoms on the Internet, including by repealing or amending the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules. End the use of undue surveillance against media workers, human rights defenders, civil society officials and others.

¹⁹ <https://theprint.in/theprint-essential/all-about-section-69a-of-it-act-under-which-twitter-had-withheld-several-posts-accounts/597367/>

²⁰ <https://www.usip.org/publications/2021/03/india-women-propel-worlds-largest-protest-movement>

²¹ <https://www.article19.org/resources/india-tech-firms-should-uphold-privacy-free-speech/>

MALDIVES

Introduction

While the climate for fundamental freedom in Maldives has improved markedly since the change in government in 2018, civic space remains restricted. Repression of peaceful protests continued throughout 2020 and 2021, with authorities often using new COVID-19 guidelines as a pretext to crack down violently on demonstrations. The repressive Freedom of Peaceful Assembly Act remains on the books after parliament rejected attempts to reform it. Journalists faced physical attacks by police during protests, while the murder of blogger Yameen Rasheed in 2017 and disappearance of Ahmed Rilwan in 2014 remain unresolved.

Freedom of expression

Maldives has risen from 120th to 72nd place in the World Press Freedom Index since President Ibrahim Mohamed Solih took office in November 2018, reflecting a more open media climate.¹ Nevertheless, concerns persist around media freedom and impunity for past crimes against journalists.

As protests against the government continued throughout 2021, journalists were on several occasions subjected to violence and excessive force by police. In February, police forcefully removed a senior staff member from Channel 13 from the scene of an opposition-led protest, and tackled to the ground one of the outlet's cameramen while he attempted to cover the demonstration. On 1 May, journalists covering the protest against rising incidents of sexual harassment in the country reported injuries after the police used excessive force against them and the protestors.²

1 <https://rsf.org/en/maldives>

2 <https://raajje.mv/99253>

Similarly, in September the Maldives Media Council (MMC) stated that police used excessive force against journalists covering an opposition-led protest in Malé, resulting in injuries.³

FORUM-ASIA continued to document reported harassment of media outlets throughout 2021. In June, a parliamentary standing committee lodged a complaint with the MMC against the media outlets Dhiyares and the Maldives Journal, after the Indian High Commission in the Maldives had urged the government to take action against the outlets due to allegedly unfair coverage. The International Federation of Journalists stated that the parliamentary committee's actions undermined the MMC's impartiality.⁴

In May, the MMC and the MJA raised concerns about a parliamentary probe into the media outlet Mihaaru News. The probe sought to reveal the identity of an anonymous source quoted by Mihaaru in an article on the assassination attempt of Mohamed Nasheed, the former Maldivian president and current speaker of parliament.⁵ In a related development, a new Evidence Bill was tabled in Parliament in August, which if passed would give courts the power to compel journalists to reveal their sources. International and national human rights groups have labelled the bill a threat against press freedom.⁶

The murder of blogger Yameen Rasheed in 2017 and the disappearance of journalist Ahmed Rilwan in 2014 remain unresolved and fraught with political interference. In 2019, President Solih established the Commission on Deaths and Disappearances

to investigate the cases of Rilwan, Rasheed and 19 others, but its investigations have yet to lead to a single conviction.⁷ In August 2021, the Commission announced a new witness protection programme given the reluctance of witnesses to give testimony. A judgement in the Criminal Court trial into Rasheed's death, where six individuals are accused of murder, is expected in December 2021. The case has been marred by severe delays, while several witnesses have withdrawn their testimony, citing threats and harassment. Police and the Prosecutor General have failed to investigate the frequent complaints of police's negligence registered by Rasheed's family.

Freedom of association

The Maldives Democracy Network (MDN), the country's oldest human rights organisation was arbitrarily de-registered it in 2019. A case filed by MDN with the Civil Court in August 2021, challenging its unlawful disbandment, remains ongoing. In April, 30 human rights groups, including FORUM-ASIA, submitted a letter to President Solih seeking clarifications on the legal basis for MDN's dissolution. Harassment of MDN staff, many of whom have left Maldives out of fear for their safety, continues. In March, opposition politicians called for Interpol notices to be issued for MDN staff in order to force their return to Maldives. Similarly, *Uthema*, a women's human rights groups, faced threats and attacks by religious hardliners after it published its report to the Committee on the Elimination of Discrimination against Women. The UN Secretary General in a report in September 2021 has highlighted MDN and *Uthema's* cases of intimidation and reprisals for cooperating with the UN.⁸

3 <https://timesofaddu.com/2021/09/20/maldives-media-council-condemns-police-brutality-against-journalists-reporting-opposition-protest/>

4 <https://twitter.com/mjamaldives/status/1412351234137235458>

5 <https://timesofaddu.com/2021/05/30/mmc-mja-express-concern-over-parliamentary-investigation-of-mihaaru-news-report/>

6 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/maldives-press-freedom-organisations-call-for-the-repeal-of-bill-that-a>

7 <https://www.forum-asia.org/?p=34607>

8 <https://ishr.ch/latest-updates/45-states-cited-for-intimidation-and-reprisals-against-human-rights-defenders-engaging-with-the-un/>

Freedom of assembly

Authorities have led a heavy-handed crackdown on protests since January 2021. The government has used the COVID-19 pandemic as a pretext to restrict the right to freedom of assembly, including Health Protection Agency (HPA) guidelines introduced in 2020 that bans gatherings of more than five people. The government has also relied on more stringent enforcement of the Freedom of Peaceful Assembly Act, which grants sweeping powers to restrict demonstrations.

Throughout January and March, scores of activists from opposition parties were arrested during separate protests, including on 12 March when 23 individuals who staged a demonstration in Malé were detained. While the pace of arrests in the context of protests has slowed down since March, such incidents have continued.

Protests highlighting sexual harassment and abuse, which disproportionately targets women, were often repressed. On 2 April, 12 opposition activists were arrested in Malé for violating HPA COVID-19

guidelines after staging a protest against increasing sexual harassment in the country.⁹ On 1 May, International Labour Day, police used excessive force, including pepper spray at close range, against a youth-led protest highlighting rising incidents of sexual harassment at workplaces. Several protesters were arrested and journalists covering the protest reported injuries as a result of police brutality.

In October 2020, the Parliamentary Committee on National Security and Foreign Relations supported the repeal of amendments to the Freedom of Peaceful Assembly Act, introduced in 2016, which requires prior authorisation for assemblies. The proposal was, however, rejected by parliament in November 2020. As FORUM-ASIA has highlighted in past reporting, the Act violates international human rights standards and has been used by successive governments to crack down on peaceful and legitimate protests. The Act heavily restricts protests outside certain designated areas and contains vague language which gives authorities huge leeway in determining whether a demonstration is “peaceful” or not.¹⁰

9 <https://timesofaddu.com/2021/04/02/12-people-arrested-in-opposition-protest-in-male-city/>

10 https://www.civicus.org/images/CIVICUS_and_the_Voice_of_Women_Joint_UPR_Submission_Maldives_22nd_Session.pdf

Recommendations to the Government of Maldives

- Respect the right to freedom of assembly and ensure that COVID-19 guidelines by the Health Protection Agency are not politicised or misused to place undue restrictions on peaceful protests, including by the political opposition or to highlight endemic sexual harassment. Prioritize the repeal of the Freedom of Peaceful Assembly Act or its reform to meet international standards.
- Ensure accountability for attacks on media workers, including the cases of Ahmed Rilwan and Yameen Rasheed, and that any investigations and judicial proceedings are fair, impartial, transparent and free of political interference. Investigate legitimate complaints by the family of Yameen Rasheed of police negligence during the investigations.
- Immediately cease all acts of reprisals and intimidation tactics against human rights defenders and organisations who engage with the UN or similar multilateral forums.

NEPAL

Introduction

Journalists, civil society activists and human rights defenders continue to come under attack in Nepal. Former Prime Minister K.P. Oli's decision to suspend parliament triggered large scale protests in Kathmandu valley and elsewhere, leading to arbitrary arrests and the use of excessive force by police. Journalists were targeted for their reporting, including related to the COVID-19 pandemic. A number of proposed laws that would muzzle freedom of expression, in particular online, remain tabled with parliament. In October, police arbitrarily arrested 13 people, 11 of whom were women, staging a peaceful protest in Kathmandu demanding fair investigations into the death of a woman and the disappearance of another. Human rights groups criticised the government for politicising and undermining the National Human Rights Commission by appointing new Members without parliamentary oversight.

Freedom of expression

Authorities in Nepal have in recent years enacted or tried to enact a range of laws and regulations that seek to restrict freedom of expression, in particular online. Nepali governments have in the past made frequent use of the Electronic Transactions Act (ETA) to punish critics online, often journalists who report on corruption.¹ An Information Technology Bill proposed in 2019 to replace the Electronic Transactions Act is, however, even more draconian. The Bill would allow the government to arbitrarily censor content online, while it uses vague language to criminalise a range of activities online, such as posting social media content that is against "national unity, self-respect, national interest, relationship between federal units."

¹ <https://www.hrw.org/news/2019/04/18/nepal-end-at-tacks-free-expression>

Offenders could be punished with up to five years in prison and a fine of 1.5 million Nepali rupees (approximately 13,000 USD).² The Bill was tabled in parliament in 2020 but has yet to pass.³

The Media Council Bill tabled in 2019 has been similarly criticized for seeking to increase official control of the media sector. It would replace the current Press Council with a new Media Council whose members would be directly appointed by the government and given broad powers to fine reporters and editors for violating its code of conduct. In 2020, the government furthermore proposed a new Public Service Broadcasting Bill which media watchdogs warned could be used to censor more government-friendly coverage on state television and radio.⁴ The two bills are currently being considered by Parliament.

Journalists in Nepal continue to face harassment, trumped-up criminal charges and physical attacks for their reporting, including on the COVID-19 pandemic. In one egregious example in April 2021, security forces raided the home and office of journalist Babin Sharma after Ujyaalo News Network, an outlet he is associated with, published a story alleging a secret agreement involving then-Prime Minister Oli and a foreign official. On 26 September, police arrested journalist Bhuwan Bhusal under the Electronic Transactions Act for his reporting; he has been released on bail.⁵ The human rights NGO Freedom Forum documented a total of 55 press freedom violations between January and November 2021, compared to a total of 96 violations in 2020.⁶

Freedom of association

Human rights groups expressed alarm over government attempts to undermine the independence of the National Human Rights Commission (NHRC). In December 2020, President Bidya Bhandari endorsed an executive ordinance reducing the quorum required for the Constitutional Council to appoint new members to key government bodies, including the NHRC and bodies protecting the rights of minorities and women. On 20 December, shortly after the Council announced its nominations, parliament was abruptly suspended. Despite the Constitution requiring parliamentary vetting of such appointments, however, all nominees were sworn in on 3 February 2021.

Domestic and international human rights groups warned that the process undermined the independence of the NHRC and the other bodies, in particular highlighting the important role of the NHRC in securing justice for past human rights violations. Four UN Special Rapporteurs and the Working Group on Enforced or Involuntary Disappearances further warned that the government's actions would have a "chilling effect on civil society actors" and would undermine "the promotion and protection of civic space and in particular the right to assemble and associate".⁷

² <https://www.amnesty.org/en/latest/news/2020/01/nepal-information-technology-bill-threatens-freedom-of-expression/>

³ <https://english.khabarhub.com/2021/08/175841/>

⁴ <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/nepal-public-service-broadcasting-bill-threatens-editorial-independence.html>

⁵ <http://nepalpressfreedom.org/main/issue-single/1307>

⁶ http://nepalpressfreedom.org/main/?filter_year=2021

⁷ <https://www.hrw.org/news/2021/03/01/nepal-human-rights-commissions-integrity-jeopardy>; <https://news.un.org/en/story/2021/04/1090692>

Freedom of assembly

Former Prime Minister K.P. Oli's decision to suspend parliament in December 2020 and again in May 2021 triggered large-scale protests in and outside Kathmandu spanning over six months. The protests, led by a broad civil-society alliance comprising rights activists, journalists, and human rights defenders, witnessed multiple arbitrary arrests and detention.⁸ In stark violation of the constitutional right to freedom of peaceful assembly, protestors were also charged with batons and water cannons and violently dispersed.⁹ The Supreme Court eventually reinstated the parliament in February 2021 following the dissolution in December 2020, and again in July 2021 after the dissolution in May 2021.

Women activists protesting systemic inequality and discrimination in the country have been targeted by authorities and retaliated with abuse, both online and offline. In February, police used barbed wire to block hundreds of women rights activists from reaching the Prime Minister's office in Kathmandu. They were protesting rising violence against women and impunity accorded to perpetrators as well as discriminatory laws and policies in the country.¹⁰ Several women reported receiving extensive abuse online in the context of the march, including death and rape threats and other intimidation tactics.¹¹ They also reported facing further harassment from the police when they tried to register their complaints

On 8 October, police arrested 13 people, 11 of whom were women, taking part in a peaceful sit-in protest in Kathmandu. The protesters had walked over 500 km from Nepalgunj in southwestern Nepal to highlight the authorities' failure to fairly investigate the death of a woman and the disappearance of another. While 12 of those arrested were quickly released, protest leader and woman human rights defender Ruby Khan was arbitrarily detained for over a week and falsely charged under "polygamy". She was eventually released on 14 October after the Supreme Court dismissed the "polygamy" accusation against her. Human Rights Watch said the police's use of manifestly false charges against Khan was an attempt "to silence a woman who is demanding justice".¹²

Often, activists and local community members protesting land grabs are prevented from exercising their rights. On 10 October, police killed four protesters and injured dozens during an eviction drive in Rupandehi in southern Nepal, where landless communities have long opposed industrial development plans. No one has yet to be held to account for the killings and government officials claimed that police acted in self-defence. This reflects long-standing immunity for security forces who use excessive force against protesters, especially women, ethnic minorities, and other marginalised groups.

8 <https://kathmandupost.com/valley/2020/12/21/police-detain-human-rights-activists-protesting-government-move-to-dissolve-house>

9 <https://kathmandupost.com/national/2021/01/26/campaigners-decry-use-of-force-by-police-on-peaceful-civic-protest-against-the-house-dissolution-move>

10 <https://kathmandupost.com/visual-stories/2021/02/12/women-s-march-in-kathmandu-to-demand-an-end-to-violence-against-women-and-impunity>

11 <https://kathmandupost.com/national/2021/02/28/they-spoke-up-and-they-are-receiving-threats>

12 <https://www.hrw.org/node/380167/printable/print>

Recommendations to the Government of Nepal

- » Immediately take steps to repeal or reform laws and policies that restrict the right to freedom of expression online or offline in line with Nepal's obligations under international human rights law and the prevailing Constitution. Ensure that any new legislation introduced meets international human rights standards and does not arbitrarily restrict fundamental freedoms or give authorities undue control of the media sector or the online sphere, including by significantly reforming the proposed Information Technology Bill.
- » Take immediate steps to criminalize online harassment and abuse against women and girls, including by working closely with social media companies to better monitor the abuse and by holding perpetrators of such abuse to account, regardless of their position in society.
- » Ensure that the Nepal Human Rights Commission can operate independently and free of government interference, including by ensuring that the Member selection process is fair, transparent and according to the prevailing Constitution.

PAKISTAN

Introduction

The Pakistani government's unrelenting assault on civic freedoms, in particular the media sector, intensified in 2021. Journalists faced judicial harassment or physical attacks, with authorities taking few meaningful steps to hold perpetrators to account. The government relied on a range of repressive laws to level trumped-up charges against media workers, civil society activists and members of religious and ethnic minority groups, while also introducing or proposing new legislation to further restrict the right to freedom of expression. Women journalists faced endemic levels of abuse and harassment online, often from government officials, with authorities doing little to hold those responsible to account.

Freedom of expression

Authorities sought to increase their control over public debate, including the media sector, through several newly proposed or enacted laws and regulations. On 25 January, the government introduced a new bill in the Senate which would grant the Pakistan Electronic Media Regulatory Authority (PEMRA), the right to access employment records and contracts of media outlets.¹ PEMRA has broad powers to regulate all private electronic media operating in the country and is criticized for being regressive and encouraging self-censorship amongst media outlets and journalists.²

The government further proposed a law establishing the Pakistan Media Development Authority (PMDA), a new regulatory body to govern all forms of media (print, digital and broadcast) and replace the existing media regulatory bodies. The Pakistan Federal Union of Journalists and Human Rights Commission of Pakistan criticised³ the opaqueness of the law drafting process and called it "draconian in scope"

1 <https://www.hrw.org/news/2021/01/28/proposed-pakistan-law-seeks-greater-control-media>

2 <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/pakistan/>

3 <https://www.dawn.com/news/1626933>

which could further muzzle independent media.⁴ Hundreds of journalists organised a peaceful demonstration against the proposed PMDA.⁵

In October 2021, the government introduced the Removal and Blocking of Unlawful Content (RBUOC) guidelines under the Prevention of Electronic Crimes Act (PECA) 2016. The guidelines, first shared in 2020, grant authorities sweeping powers to censor online content and require internet service providers and social media platforms to comply with any request from the authorities within 24 hours. The regulations further require messaging apps, including WhatsApp, to share user data with authorities without judicial oversight. Similarly, the proposed Criminal Law Amendment Bill 2020 which criminalises intentional ridicule of the armed forces has been heavily criticized by human rights groups as well as the Ministry of Human Rights and Ministry of Science and Technology.⁶

Scores of journalists faced arbitrary arrest or other judicial harassment in 2021, with authorities particularly relying on PECA to muzzle free speech online.⁷ In June, journalist Muhammad Bilal Ghauri was summoned for questioning by a court in Islamabad regarding alleged “defamation” through a YouTube video.⁸ In August, journalists Amir Mir and Imran Shafqat were arrested under PECA for criticizing the national security agencies and the judiciary.⁹

The government failed to meaningfully investigate and hold perpetrators to account in a number of physical attacks against media workers. In April, Absar Alam, a journalist and prominent government critic, was shot and wounded in Islamabad by an unknown assailant. In May, journalist Asad Ali Toor was severely beaten by three men claiming to be from a security agency.¹⁰ A week prior to this incident, he was summoned for allegedly defaming national institutions which resonates similar charges levied against him in September 2020.¹¹ Similarly, in June, an unidentified assailant abducted journalist, Matiullah Jan, in Islamabad; he was released after a few hours.¹² The newspaper Dawn documented at least 148 attacks against journalists between May 2020 and April 2021, including six murders.¹³

Women media workers faced high levels of abuse and harassment online. More than 160 female journalists on 12 August issued a joint letter highlighting misogynist attacks they face on social media, including by government officials. The journalists stated that the attacks have led to increasing self-censorship and demanded government action to hold perpetrators to account.¹⁴ On 19 August, women journalists addressed Parliament to detail and demand action against the persistent abuse they face.¹⁵ According to the digital rights NGO Bytes4All, reports of online harassment against women doubled in 2020 compared to 2019.¹⁶

4 <https://www.dawn.com/news/1626460/ordinance-about-creation-of-new-media-body-opposed>

5 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-government-must-heed-media-protests-against-controversial-pmda-bill.html>

6 https://www.forum-asia.org/?p=34809#_ftn4; <https://www.dawn.com/news/1617106>

7 <https://www.fnpk.org/pakistan-silencing-online-journalists-through-legal-victimization/>

8 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-fia-summons-journalist-for-critical-reporting.html>

9 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-two-pakistani-journalists-arrested-under-the-cybercrime-act.html>

10 <https://www.dawn.com/news/1626933>

11 <https://www.dawn.com/news/1626757>

12 <https://www.hrw.org/news/2021/06/03/pakistan-escalating-attacks-journalists>

13 <https://www.dawn.com/news/1621677>

14 <https://docs.google.com/document/d/1DD8BQ53noKO6zHy-gysGnFjeKT4ride4uYtQsNNRYoc/edit>

15 <https://www.dawn.com/news/1575116/parliamentary-body-hears-complaints-of-women-journalists>

16 <https://www.forum-asia.org/uploads/wp/2021/09/Pakistan-Internet-Landscape-Report.pdf>

According to the media watchdog Freedom Network, there were 148 cases of attacks or human rights violations against journalists between May 2020 and April 2021, a 40% increase on the same period in the previous year. The most common violations were legal harassment, threats and arrest or detention, with state agents responsible in almost half of all cases.¹⁷

Freedom of association

Authorities continued systematic attempts to suppress the Pashtun Tahaffuz Movement (PTM), a peaceful movement advocating for the rights of the ethnic Pashtun community. Ali Wazir, a senior PTM leader and Member of Parliament, was arrested on 17 December 2020 after he and several PTM leaders were accused of several “anti-state offences” under the country’s Penal Code. The accusations were linked to a speech Ali Wazir delivered to supporters in Karachi earlier in December.¹⁸ Dr Said Alam Mehsud, another senior PTM leader, was arrested and remanded for four days in Peshawar after organising a demonstration against the detention of Ali Wazir.¹⁹ Wazir’s requests for bail have been denied repeatedly. In November 2021, an Anti-Terrorism Court in Karachi charged Wazir and 10 other PTM activists for sedition.²⁰

Muhammad Ismail, a prominent civil society activist and the focal person for the Pakistan NGO Forum, have faced systematic harassment by authorities since 2019, in part because of his daughter’s human rights activism.

He and his wife face terrorism and sedition charges.²¹ Ismail was arrested in February 2021 after the Anti-Terrorism Court in Peshawar cancelled his interim pre-trial bail. He was released on bail in April and human rights organisations have expressed fair trial concerns in the proceedings.²² In October, the UN Working Group on Arbitrary Detention concluded that Ismail’s detention was arbitrary and motivated because of his work on human rights.²³

Freedom of assembly

On 8 March, International Women’s Day, thousands of women took part in the fourth annual Aurat March (Women’s March) in towns and cities across Pakistan.²⁴ Several organisers and participants faced threats and vilification online, while religious right-wing groups accused the organisers of promoting “vulgarity”. In Lahore, women marchers were aggressively harassed by men with cameras and microphones.²⁵ On 25 March, a Peshawar court ordered the registration of a first information report against the organisers for making “derogatory remarks” against Islam.

17 <https://fnpk.org/wp-content/uploads/2021/04/FINAL-May-3-Report.pdf>

18 <https://www.dawn.com/news/1596189>

19 <https://www.dawn.com/news/1599732>

20 <https://www.dawn.com/news/1655760>

21 <https://www.civicus.org/index.php/media-resources/media-releases/4890-pakistan-rights-group-calls-for-release-of-activist-professor-muhammad-ismail-following-bail-rejection>

22 <https://monitor.civicus.org/updates/2021/09/28/civil-society-slams-harassment-journalists-proposed-media-law-stifling-protests-pakistan/>

23 https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session91/A_HRC_WGAD_2021_37_AdvanceEditedVersion.pdf

24 <https://monitor.civicus.org/updates/2021/04/02/attacks-aurat-march-minorities-and-critics-highlight-shrinking-space-dissent-pakistan/>

25 <https://www.aljazeera.com/features/2021/3/22/pakistans-feminists-say-will-persevere-amid-increased-threats>

There is a discernible pattern of intimidation tactics against protestors, including police violence in contravention to the country's constitutional and international human rights obligations. In May, indigenous communities from Karachi protesting against forceful takeover of their land by commercial developers were shot at and violently dispersed.²⁶

Similarly, in August, police used excessive force, including batons and water cannons, against protesting doctors and medical students injuring at least 20 people.²⁷

Recommendations to the Government of Pakistan:

- Immediately take steps to repeal or reform laws and policies that restrict the right to freedom of expression online or offline in line with Pakistan's obligations under international human rights law and the prevailing Constitution. Ensure that any new legislation introduced, including the proposed PMDA bill meets international human rights standards and does not arbitrarily restrict fundamental freedoms or give authorities undue control of online and offline media.
- Immediately cease all politically motivated actions against journalists, human rights defenders, and activists, in particular women, indigenous groups, and religious minorities and ensure a conducive environment to exercise the rights to freedom of expression, association, and assembly.

²⁶ https://www.theguardian.com/global-development/2021/may/28/they-fired-at-everyone-peril-of-pakistani-villagers-protesting-giant-luxury-estate?fbclid=IwAR0kXVNOQr5yMaAS3j_t1FU3V425aiKXPkdaKqie2Wkq4or35-eZOyQMhSuM

²⁷ <https://www.amnesty.org/en/latest/news/2021/09/pakistan-investigate-police-for-use-of-excessive-force-against-protesting-doctors/>

SRI LANKA

Introduction

Sri Lanka's human rights situation has taken a sharp downturn since the election of Gotabaya Rajapaksa as President in 2019. Media workers have reported an increase in threats and judicial harassment, forcing journalists into exile and compelling widespread self-censorship, a trend that continued and intensified throughout 2021. The government has rescinded past commitments to ensure justice for serious human rights violations, including alleged war crimes or crimes against humanity during the civil war that ended in 2009, while harassing journalists, CSOs and activists working on accountability issues.

Freedom of expression

Journalists continued to face intimidation and threats of legal action, which has contributed to a climate of self-censorship. Media rights watchdogs, for example, highlighted how Tamil journalists Punniyamoorthy Sasikaran and Selvakumar Nilanthan have been repeatedly questioned and threatened by police in an effort to undermine their work in 2021.¹ In 2020, at least two journalists felt compelled to flee the country in the face of threats from officials.² The International Commission of Jurists has highlighted how authorities have threatened journalists, government officials, doctors and social media users with legal action for criticising the official COVID-19 response.³ Furthermore, a new bill to combat "fake news", approved by Cabinet in April 2021 but pending parliamentary authorisation, has evoked concerns over its potential to undermine press freedom.⁴

1 <https://cpj.org/2021/07/sri-lankan-anti-terror-authorities-interrogate-journalist-selvakumar-nilanthan/>; <https://cpj.org/2021/08/sri-lanka-police-repeatedly-interrogate-journalist-punniyamoorthy-sasikaran/>

2 <https://cpj.org/2020/04/sri-lankan-journalists-turn-to-self-censorship-und/>

3 <https://www.icj.org/sri-lanka-covid-19-restrictions-should-not-undermine-freedom-of-expression/>

4 <https://ifex.org/sri-lanka-free-media-movement-said-fake-news-bill-could-undermine-freedom-of-expression/>

Authorities have frequently invoked the ambiguous Prevention of Terrorism Act (PTA) against critics which allows prolonged detention without trial based on mere suspicion. Lawyer and human rights activist Hejaaz Hizbullah remains detained without trial under the PTA since April 2020. The charges against him have changed frequently during his incarceration, and in February 2021 the High Court added the charge of “causing communal disharmony” under the PTA.⁵ In August 2021, police detained journalist Keerthi Ratnayake under the PTA for allegedly supplying information to the Indian embassy about a terrorist attack.⁶ In March 2021, the government announced new regulations to make the PTA even more abusive, allowing for the detention without trial of up to two years of anyone suspected of causing “religious, racial, or communal disharmony”.⁷

The Rajapaksa government has actively undermined efforts to seek justice for past human rights violations allegedly involving state officials, which has considerably shrunk the country’s civic space. In 2020, the government renounced a landmark 2015 Human Rights Council resolution which committed Sri Lanka to seek justice for past crimes and instead established a new domestic mechanism whose credibility and independence has been questioned by human rights groups.⁸ Investigations into past crimes against media workers and civil society activists – such as the 2010 forced disappearance of journalist Prageeth Ekneligoda – have been derailed.

In a January 2021 report, Michelle Bachelet, the UN High Commissioner for Human Rights, expressed concern about the worsening human rights situation

in Sri Lanka, including the use of counterterrorism laws to stifle the legitimate work of CSOs.⁹ Similarly, the UN Human Rights Council in March passed a resolution highlighting the deteriorating human rights situation in the country, including growing threats to media freedom and civil society. It further strengthened the capacity of OHCHR to “collect, consolidate, analyse and preserve information and evidence” of human rights violations in the country, with a view to support future prosecutions.¹⁰

Freedom of association

Civil society activists continue to face harassment, including through the judiciary and trumped-up charges. On 25 June 2021, Asela Sampath, the Co-coordinator for People Human Rights Protection, was detained by police for allegedly spreading “false propaganda” on social media about COVID-19 vaccinations. He was released on bail the following day.¹¹ OHCHR reported that as of December 2020, more than 40 CSOs had approached it with reports of harassment, surveillance, and repeated scrutiny by various security services, including the Criminal Investigation Department, the Terrorist Investigation Division and State Intelligence officials.

The Rajapaksa administration has further expanded the role of the military in government. It has placed key agencies such as the National Media Centre, the Telecommunications Regulatory Commission and the NGO Secretariat, which oversees the work of non-governmental organisations, under the Defence Ministry, while appointing current or former military personnel to key administrative posts. In addition, the Army Commander has headed the COVID-19

5 <https://www.hrw.org/news/2021/07/28/sri-lanka-free-rights-activist>

6 <https://cpj.org/2021/08/sri-lankan-journalist-keerthi-ratnayake-detained-under-anti-terror-act/>

7 <https://www.hrw.org/news/2021/06/29/sri-lanka-pardons-meager-response-abusive-law>

8 <https://www.cpalanka.org/centre-for-policy-alternatives-v-attorney-general-sc-fr-32-2020/>

9 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26695&LangID=E>

10 <https://undocs.org/A/HRC/RES/46/1>

11 <https://www.hirunews.lk/english/275391/asela-sampath-released-on-bail>

response, the military has been tasked with administering quarantine centres and checkpoints.¹² This raises serious concerns about increased official interference, intimidation, and surveillance of civil society. According to Human Rights Watch, the government has in particular targeted activists and organisations working on accountability for past human rights abuses through harassment and increased surveillance.¹³

A constitutional amendment introduced in October 2020 has seriously undermined the independence of the Human Rights Commission of Sri Lanka including by given the President virtually unchecked power to appoint and dismiss Members.¹⁴

Freedom of assembly

In February 2021, courts across Sri Lanka's north and east – the region where most of the civil war took place – issued bans and injunctions against organisations and individuals to prevent a five-day “walk for justice” organised by Tamil conflict victims’ organisations and CSOs. Police had petitioned courts across the region to stop the marches for violating COVID-19 regulations as well as their attempts to highlight human rights

violations. The Kalunvanchikudy Magistrate in the Eastern Province, for example, banned the protest after police said it would turn “people against the Sri Lankan Government ” and encourage “communal disharmony”. Despite the efforts of authorities to suppress the protests, thousands eventually took part in the marches.¹⁵ After the protests, Public Security Minister Sarath Weerasekara publicly threatened to imprison those who took part, stating: “We have their photos. We have their vehicle numbers.”¹⁶

CIVICUS has highlighted how a ban on all protests, imposed by Director General of Health Services on 6 July 2021 to curb the spread of COVID-19, has led to the arbitrary disbandment of several demonstrations, including by activists, workers, students, and farmers.¹⁷ Authorities have further since July arbitrarily arrested hundreds of individuals who have taken part in protests against increasing inequality and militarization of the education sector. On 3 August, for example, five activists were detained after taking part in a peaceful protest near the parliament building in Colombo, baselessly accused of “damaging public property”, “causing injuries to fingers of a policeman” and “violating Covid-19 regulations”.¹⁸

12 https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx

13 <https://www.hrw.org/news/2020/08/08/sri-lanka-increasing-suppression-dissent>

14 <https://www.forum-asia.org/?p=34844>

15 <https://monitor.civicus.org/updates/2021/03/16/ahead-new-sri-lanka-resolution-civil-society-and-un-highlight-ongoing-rights-concerns/>

16 <https://twitter.com/jdslanka/status/1359086757212532737?s=24>

17 <https://monitor.civicus.org/updates/2021/07/13/despite-un-concerns-sri-lanka-continues-detain-critics-arrest-protesters-and-entrench-impunity/>

18 <https://www.forum-asia.org/?p=35881>

Recommendations to the Government of Sri Lanka

- Reform or repeal all legislation that violates international human rights standards and is used to unduly restrict the human rights to freedom of expression, association or assembly, including the Prevention of Terrorism Act.
- End all intimidation and harassment of civil society actors, including of activists and groups engaged on accountability for past human rights violations.
- Immediately renew commitments to cooperate with international actors on justice and accountability for past human rights violations, war crimes, and crimes against humanity committed during the civil war. Ensure that all domestic mechanisms on accountability are adequately resourced, meet international human rights standards, and operate independently, impartially and free of official interference.



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