

# GLOBAL TRENDS IN NGO LAW

A quarterly review of NGO legal trends around the world

VOLUME 6, ISSUE 1

## *The Right to Freedom of Expression: Restrictions on a Foundational Right*



GLOBAL TRENDS IN NGO LAW IS A PUBLICATION OF THE INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW, AN INTERNATIONAL NOT-FOR-PROFIT ORGANIZATION THAT PROMOTES AN ENABLING ENVIRONMENT FOR CIVIL SOCIETY AND PUBLIC PARTICIPATION WORLDWIDE. SINCE ITS INCEPTION IN 1992, ICNL HAS BEEN THE WORLD'S LEADING ORGANIZATION IN THE AREA OF EFFORTS TO PROMOTE PROGRESSIVE LAWS GOVERNING CIVIL SOCIETY, PROVIDING TECHNICAL ASSISTANCE TO NGO LAW REFORM INITIATIVES IN MORE THAN ONE HUNDRED COUNTRIES. WE INVITE YOU TO LEARN MORE ABOUT ICNL AND OUR PROGRAMS BY VISITING US ONLINE AT [HTTP://WWW.ICNL.ORG](http://www.icnl.org).

# GLOBAL TRENDS IN NGO LAW

A quarterly review of NGO legal trends around the world

## *The Right to Freedom of Expression: Restrictions on a Foundational Right*

### *Introduction*

The freedom of expression, universally acknowledged as both a fundamental and foundational human right, is not only the cornerstone of democracy, but indispensable to a thriving civil society.<sup>1</sup> Indeed, the freedom of expression is considered the “foundational human right of the greatest importance.”<sup>2</sup>

The right to freedom of expression is protected by a multitude of regional and international treaties, charters, and frameworks.<sup>3</sup> According to Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR), a formally binding legal treaty ratified by 165 nations that echoes in key respects the Universal Declaration of Human Rights (UDHR):

Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.<sup>4</sup>

---

<sup>1</sup> In its very first session, the UN General Assembly declared that the Freedom of Information [which inheres in the Freedom of Expression] is a fundamental human right and...the touchstone of all the freedoms to which the United Nations is consecrated.” See Resolution 59(1), 14 December 1946. According to Article 19, an organization devoted to defending the freedom of expression, freedom of expression “is not only important in its own right but is also essential if other human rights are to be achieved.” See <http://www.article19.org/pages/en/freedom-of-expression.html>.

<sup>2</sup> Centre for Law and Democracy, Restricting Freedom of Expression: Standards and Principles, Background Paper for Meetings Hosted by the UN Special Rapporteur on Freedom of Opinion and Expression, available at <http://www.law-democracy.org/wp-content/uploads/2010/07/10.03.Paper-on-Restrictions-on-FOE.pdf>.

<sup>3</sup> See e.g., The European Convention on Human Rights, Art. 10; The American Convention on Human Rights, Art. 9; The African Charter on Human and Peoples’ Rights, Art. 13; The Arab Charter on Human Rights, Art. 32.

<sup>4</sup> UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at <http://www.refworld.org/docid/3ae6b3aa0.html>. The ICCPR in many respects mirrors the Universal Declaration of Human Rights, including in Article 19. See UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (111), available at

The freedom of expression is characterized by six key features:<sup>5</sup>

- It applies to “everyone” equally without distinction of any kind whatsoever; distinctions based on “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” are entirely irrelevant to its application.<sup>6</sup>
- Its geographical scope is unlimited; it applies “regardless of frontiers.”
- Its substantive scope, while not unlimited, is broad; it encompasses “information and ideas of all kinds.”<sup>7</sup>
- It includes the rights to both “receive and impart information and ideas”; the rights of both listeners and speakers, and observers and demonstrators are equally protected.<sup>8</sup>
- It imposes a positive obligation on signatories to the ICCPR; states are obligated to “take the necessary steps” to ensure its protection, including adopting “laws or other measures as may be necessary” and providing “an effective remedy” to those whose freedom of expression has been violated.<sup>9</sup>
- The manner in which expressions are disseminated is unlimited; it protects the right to impart one’s ideas using “any” form of “media of his choice.”

The freedom of expression, while expansive, is not absolute and can, in certain narrow circumstances, be restricted. According to Article 19(3) of the ICCPR:

---

<http://www.refworld.org/docid/3ae6b3712c.html>. Because the ICCPR is considered binding, while the UDHR is not (given its nature as a non-binding General Assembly Resolution), we refer here only to the text of the ICCPR.

<sup>5</sup> This list was inspired by a number of sources, including inter alia: Restricting Freedom of Expression: Standards and Principles, Background Paper for Meetings Hosted by the UN Special Rapporteur on Freedom of Opinion and Expression, Centre for Law and Democracy (2010), available at <http://www.law-democracy.org/wp-content/uploads/2010/07/10.03.Paper-on-Restrictions-on-FOE.pdf>; and “Freedom of Expression: Key Aspects,” Article 19, available at <http://www.article19.org/pages/en/key-aspects.html>.

<sup>6</sup> ICCPR, Art. 2(1).

<sup>7</sup> Emphasis added. The UN Human Rights Committee has stressed that ‘expression’ is broad and not confined to political, cultural or artistic expression, but that it also includes controversial, false and even shocking expressions. Just because an expression is disliked or thought to be false does not justify its censor without more. ICCPR, Art. 19(3) outlines the only permissible limitations. See discussion directly below on Article 19(3) and how it has been interpreted. See Article 19, “Key Aspects,” #3, available at <http://www.article19.org/pages/en/key-aspects.html>.

<sup>8</sup> Italics added for emphasis. According to the Inter-American Court of Human Rights: “[W]hen an individual’s freedom of expression is unlawfully restricted, it is not only the right of that individual that is being violated, but also the right of all others to “receive” information and ideas... For the average citizen it is just as important to know the opinions of others or to have access to information generally as is the very right to impart his own opinions.”

<sup>9</sup> ICCPR, Art. 2(2) requires state signatories to “take the necessary steps....to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant,” and to provide “an effective remedy” to those whose freedoms have been violated.

[The freedom of expression] carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputation of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

As interpreted, any limitation on the right to freedom of expression must meet a strict three-part test:

- It must be provided by law, which is clear and accessible to everyone;
- It must pursue one of the specific purposes set out in Article 19(3) of the ICCPR; and
- It must be necessary and the least restrictive means required to achieve its purported aim.<sup>10</sup>

The state actor or entity imposing a limitation on free expression bears the burden of satisfying each of the three requirements. To satisfy the first requirement, the law or regulation, which should be formally adopted by law-making authorities, must be sufficiently clear and precise; vague or unclear provisions will not suffice.<sup>11</sup> To meet the second requirement, only two narrowly specified “aims” will be considered, namely those — and only those — outlined in Article 19(3): “national security or public order,” or “public health or morals.” This limited list of aims is designed to ensure that laws or regulations interfering with the freedom of expression be kept to a minimum, and passed for only certain narrowly tailored, justifiable reasons.<sup>12</sup> Even when justified by one of the two permissible ‘aims’ stated above, such laws/regulations must be accompanied by adequate safeguards to ensure against interpretive abuse or disproportionate

---

<sup>10</sup> This three-part test is common in most international and much national jurisprudence pertaining to freedom of expression. See *Defining Defamation, Principles on Freedom of Expression and Protection of Reputation*, July 2000, available at <http://www.ipu.org/splz-e/sfe/definition.pdf> (see p. 4, “Comment on Principle 1”). See also Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, Human Rights Council, May 16, 2011, at para. 24 [“HRC Report on the Promotion and Protection of Expression”]. Examples include, inter alia, *Refah Partisi (The Welfare Party) and Others v. Turkey*, 13 February 2003, Application Nos. 41340/98, 41342/98, 41343/98 and 41344/98 (European Court of Human Rights), para. 50-85; *The Sunday Times v. United Kingdom*, 26 April 1979, Application No. 6538/74, para. 45; *Mukong v. Cameroon*, 21 July 1994, Communication No. 458/1991, para. 9.7 (UN Human Rights Committee).

<sup>11</sup> *The Sunday Times v. United Kingdom*, 26 April 1979, Application NO. 6538/74, para. 49 (stating that “the citizen must be able to have an indication that is adequate in the circumstances of the legal rules applicable to a given case.”).

<sup>12</sup> According to the Human Rights Commission, “[r]estrictions [on freedom of expression] must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.” See Human Rights Committee, General Comment No. 34, 102<sup>nd</sup> session, Geneva, July 2011, para. 22.

application, including the opportunity to challenge and remedy any unjustified restrictions.<sup>13</sup> Finally, the third requirement for “necessity” requires that there be a “pressing” or “substantial” need for the restriction, that the restriction be “rationally connected” to a legitimate interest at stake, and that it be the “least intrusive measure” available.<sup>14</sup> The necessity prong has proven particularly difficult for states to satisfy; in the vast majority of cases where international courts have invalidated a restriction on the right to freedom of expression, it has been on this basis.<sup>15</sup>

It is important to note that in many instances restrictions on the right to freedom of expression are compatible with international and national, including constitutional, laws. Laws prohibiting contempt of court, voter intimidation, and child pornography, for example, are widely recognized as permissible restrictions on free expression.<sup>16</sup> Just as a thriving civil society depends on an active, expressive citizenry, so too does it depend on certain legal protections ensuring that expressive activity not harm others.

### *Restrictions on the Right to Freedom of Expression*

Examples of states imposing restrictions on the right to freedom of expression in violation of international law have been growing in recent years. This issue of Global Trends will examine existing laws that appear to unlawfully restrict the freedom of expression. These laws fall into six categories, which include:

- Laws criminalizing national betrayal
- Laws preventing extremism and terrorism
- Laws regulating the media
- Laws governing information and communications technology (ICT), including the Internet
- Laws prohibiting defamation and libel
- Laws restricting specific categories of content

---

<sup>13</sup> Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, Human Rights Council, May 16, 2011, at para. 24. See *Mukong v. Cameroon*, note 11, para. 9.7 (UN Human Rights Committee).

<sup>14</sup> *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism*, Advisory Opinion OC-5/85 of 13 November 1985, Inter-American Court of Human Rights, Series A, No., note. 8, para. 46.

<sup>15</sup> See General Comment No. 34, at para. 24; Centre for Law and Democracy, *Restricting Freedom of Expression: Standards and Principles*, Background Paper for Meetings Hosted by the UN Special Rapporteur on Freedom of Opinion and Expression, p. 17. See also Article 19: Defending Freedom of Expression and Information, at <http://www.article19.org/pages/en/limitations.html> (stating that “in the great majority of cases” the restriction fails on the ‘necessity’ prong).

<sup>16</sup> General Comment No. 34, paragraphs 24, 28 (discussing the permissibility of limiting speech for the purpose of regulating behavior within the courtroom and for preventing voter intimidation at the polls); HRC Report on the Promotion and Protection of Expression, at para. 25 (listing child pornography as one of the permissible exceptions to free expression).

After a brief introduction of each category, a series of illustrative examples will be offered, highlighting the ways in which freedom of expression has been legislatively narrowed in recent years. This issue will conclude by highlighting some of the overall trends and lessons learned regarding the ways in which the law has been used to restrict freedom of expression around the world.

### ***Laws Criminalizing National Betrayal***

In recent years, regimes have used laws criminalizing sedition, espionage, treason, and similar acts, to effectively silence criticism against the state, often targeting journalists, activists, bloggers, and protesters. These types of laws tend to be vulnerable to governmental abuse absent clear legal protections ensuring the right to peacefully demonstrate and vocalize one's dissent against government policies and actors.

- **Burma/Myanmar:** In 2014, five journalists were arrested and charged with violating the country's State Secrets Act of 1923, among other laws, for publishing a story on a suspected chemical weapons factory. All copies of the article were confiscated and the five were not released pending trial, which is ongoing. If convicted, the journalists face up to fourteen years in prison.<sup>17</sup>
- **Egypt:** In 2014, military authorities used an espionage law, and other similar laws, to arrest, charge and prosecute critics of the military. One such critic was internationally respected and renowned scholar Emad Shahin, who was charged with conspiring with foreign organizations to harm Egyptian national interests after openly criticizing the military's ouster of President Morsi.<sup>18</sup> Another was Amr Hamzawy, a prominent Egyptian political scientist and former lawmaker, who was charged with insulting the judiciary for questioning a ruling against a group of Western nonprofit organizations. And a third was Egyptian filmmaker Hossam al-Meneai, who was also arrested and charged with spreading "false names and endangering the stability of the nation" after being caught with footage that was considered sympathetic to the Muslim Brotherhood.<sup>19</sup>
- **Malaysia:** In the summer of 2014 there was a marked increase in the number of sedition charges filed, despite promises made by the Prime Minister in 2012 to repeal the

---

<sup>17</sup> Burma/Myanmar: Journalists Prosecuted Because of Article About Army, Asian Human Rights Commission, May 8, 2014, available at <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-066-2014>.

<sup>18</sup> Dr. Shahin has taught at Harvard, Notre Dame, and the American University in Cairo. See Renowned Scholar in Egypt Charged with Espionage, New York Times, January 22, 2014, available at <http://www.nytimes.com/2014/01/23/world/middleeast/egypt.html>.

<sup>19</sup> Egypt: High Price of Dissent, Human Rights Watch, February 20, 2014, available at <http://www.hrw.org/news/2014/02/19/egypt-high-price-dissent>.

Sedition Act. Adopted by the British colonial government in 1948, the Sedition Act criminalizes “seditious tendencies” that cause “hatred or contempt, or excite disaffection” against the government or its ruler, as well as “seditious” speech questioning the special privileges of the Malay people.<sup>20</sup> Sedition is held to a strict liability standard, making the speaker’s intentions irrelevant to any defense, and those convicted face up to three years in prison and up to \$1,500 in fines. This law has been used in recent times to charge a high-profile professor and commentator, among others, with sedition for making critical comments about government acts.<sup>21</sup> The professor was charged based on a quote from an online article describing the collapse of an opposition state government in 2009 as “legally wrong” and resulting from a “secret meeting.”<sup>22</sup>

- **Russia:** In 2013, in response to mass opposition protests in 2010-2011, the Criminal Code was amended to expand the definitions of treason and espionage, which now include “providing financial, technical, advisory or other assistance to a foreign state or international organization... directed at harming Russia’s security.” The expanded law also considers ‘treason’ to include passing information on to foreign and international organizations if the organization plans to use it to harm Russia’s national security interests. Under the law, a person convicted of ‘high treason’ faces up to twenty years imprisonment. Human rights activists around the world decried these changes to the law as “directly threaten[ing to] the exercise of protected fundamental rights”<sup>23</sup> and as so “vague as to enable the government to brand a critic as a traitor.”<sup>24</sup> Those closely monitoring events in Russia have noted that the new law “is clearly having a chilling effect on freedom of expression and the right to freedom of association.”<sup>25</sup> For example, human rights observers noted that in the lead-up to the Sochi 2014 Winter Olympics, much of the Russian news media failed to report on sensitive issues, such as the exploitation of migrant workers or environmental destruction, creating an “information

---

<sup>20</sup> Malaysia: ICJ condemns the use of sedition to suppress freedom of expression, International Commission of Jurists, September 4, 2014, available at <http://www.icj.org/malaysia-icj-condemns-the-use-of-sedition-to-suppress-freedom-of-expression-calls-for-the-abolition-of-the-sedition-act/>.

<sup>21</sup> Id.

<sup>22</sup> Malaysian Law Professor Charged in Crackdown on Dissent, Reuters, September 2, 2014, available at <http://www.reuters.com/article/2014/09/02/us-malaysia-sedition-idUSKBN0GX0P220140902>.

<sup>23</sup> Russia: New Treason Law Threatens Rights, Human Rights Watch, October 23, 2012, available at <http://www.hrw.org/news/2012/10/23/russia-new-treason-law-threatens-rights>.

<sup>24</sup> NGO Law Monitor: Russia, ICNL, Updated July 23, 2014, available at <http://www.icnl.org/research/monitor/russia.html>.

<sup>25</sup> Russia at the UPR: Repeal oppressive laws restricting the rights to freedom of expression and assembly and association, Article 19, April 11, 2013, available at <http://www.article19.org/resources.php/resource/3691/en/russia-at-the-upr:-repeal-oppressive-laws-restricting-the-rights-to-freedom-of-expression,-assembly-and-association>.

vacuum.”<sup>26</sup> Fearful of the series of restrictive laws, including the treason law, adopted following Putin’s return to power in May 2012, members of the media chose to instead present a sanitized, non-threatening version of events.<sup>27</sup>

- **South Africa:** The Protection of State Information Bill, often dubbed the “Secrecy Bill” and described as the first piece of anti-democracy legislation since the end of racial apartheid, was adopted in 2013 and imposes sentences of up to twenty-five years in prison for whistleblowers and journalists who possess, leak or publish state secrets, or who are engaged in espionage.<sup>28</sup>
- **Jordan:** Article 118 of the Criminal Code bans “disturbing relations with a foreign state,” which has been used to limit critical speech about foreign rulers or countries. For example, in 2013, the State Security Court charged and imprisoned the editor of the Jafra News website after it posted a YouTube video considered insulting to the brother of Qatar’s king. Similarly, in 2013, three activists were arrested and detained for distributing posters showing an Arabic word, *Raba’a*, referring to a square in Cairo where Muslim Brotherhood protesters were dispersed by security forces.
- **Bahrain:** In 2011, Abduljalil Abdulla al-Singace, a human rights activist, engineer and blogger was convicted, along with twenty-one other activists, by a military court of plotting to overthrow the government and belonging to a terrorist organization after participating in peaceful protests calling for democracy in Bahrain. This followed a 2009 arrest, when al-Singace was similarly charged with participating in a terror plot and inciting hatred against the regime after he highlighted the lack of freedom in Bahrain in his blog. Al-Singace received a life sentence following his 2011 arrest; the other activists received sentences ranging from two to fifteen years.<sup>29</sup>
- **Indonesia:** In 2011, Indonesia adopted the State Intelligence Law, which broadly authorizes the State Intelligence Agency to engage in efforts “to prevent and/or to fight any effort, work, intelligence activity, and/or opponents that may be harmful to national interests and national security ....”<sup>30</sup> “Opponent” is broadly defined as any “party from inside or outside the country engaged in effort, work, activities and action that may be detrimental to national interests and national stability.” Moreover, Articles 44 and 45

---

<sup>26</sup> Media suffer winter chill in coverage of Sochi Olympics, Committee to Protect Journalists, January 28, 2014, available at <https://cpj.org/reports/2014/01/media-suffer-winter-chill-in-coverage-of-sochi-oly.php>.

<sup>27</sup> According to the above report, “almost all local media- state- and privately owned – report only those news events that have been officially cleared for coverage.”

<sup>28</sup> South African Campaigners Unite Against Secrecy Bill, The Guardian, June 6, 2012, available at <http://www.theguardian.com/world/2012/jun/06/south-african-campaigners-secrecy-bill>.

<sup>29</sup> Reporters Without Borders, September 6, 2011, available at [http://en.rsf.org/bahrain-one-blogger-sentenced-to-life-22-06-2011\\_40507.html](http://en.rsf.org/bahrain-one-blogger-sentenced-to-life-22-06-2011_40507.html).

<sup>30</sup> Law on State Intelligence, passed October, 2011, Art. 6.

criminalize the negligent leaking of confidential information about intelligence activities and Article 32 authorizes intelligence agencies to intercept communications without prior court approval. The Supreme Court rejected a 2012 challenge to the law by a coalition of civil society groups, stating that the law neither violated the Constitution nor threatened the freedom of expression.<sup>31</sup>

- **China:** In 2010, a revision to the 1989 Law on Guarding State Secrets took effect. The Law now covers all public information networks (e.g., the Internet, the traditional media, hardware/software/service providers) and establishes a broad definition of state secrets (“matters that concern state security and interests and, if leaked, would damage state security and interests in the areas of politics, economy, and national defense, among others”). The law imposes hefty burdens on information communications technology (ICT) companies operating in China. ICTs must cooperate with government investigations of state secret leaks, immediately stop the transmission of state secrets if discovered, delete the discovered secrets from their sites, maintain “relevant records,” and submit reports to government entities. Moreover, according to the regulations implementing this law, information can be retroactively classified as “secret” if the information harms the political or economic interests of the state in its dealings with foreign countries, endangers the state’s ability to consolidate and defend its power, and affects national unity, ethnic unity or social stability.<sup>32</sup>
- **Cuba:** Criminal laws prohibit actions, including speech, which threaten the country’s independence or national security. Article 91 establishes lengthy prison sentences or the death penalty for those who act against “the independence or the territorial integrity of the state,” while Article 103 criminalizes the production, distribution or possession of “enemy propaganda,” punishable by up to 8 years in prison.<sup>33</sup> Law 88 for the Protection of Cuba’s National Independence and Economy similarly ensures against threats to national security by imposing up to twenty years in prison for acts “aimed at subverting the internal order of the nation and destroying its political, economic, and social system.”<sup>34</sup> And the 1977 Law of National Dignity provides prison sentences ranging from three to ten years for “anyone who, in a direct or indirect form,

---

<sup>31</sup> State Intelligence Law Challenged in Court, IFEX, January 25, 2012, available at [http://www.ifex.org/indonesia/2012/01/26/judicial\\_review/](http://www.ifex.org/indonesia/2012/01/26/judicial_review/); Indonesia: Repeal New Intelligence Law, Human Rights Watch, October 26, 2011, available at <http://www.hrw.org/news/2011/10/26/indonesia-repeal-new-intelligence-law>.

<sup>32</sup> 2014 Regulations on the Implementation of the People’s Republic of China on Guarding State Secrets; English translation available at <http://www.hrichina.org/en/implementation-regulations/2014-regulations-implementation-law-peoples-republic-china-guarding-state>.

<sup>33</sup> Law No. 62 (Criminal Code), entered into force April 20, 1988 (last amended 1999), available at <http://www.wipo.int/wipolex/en/details.jsp?id=900> (in Spanish).

<sup>34</sup> Crimes committed under Law 88, available at [http://www.cubaverdad.net/crime\\_under\\_law\\_88.htm](http://www.cubaverdad.net/crime_under_law_88.htm).

collaborates with the enemy's media."<sup>35</sup> These and other similar laws are enforced by legal and institutional structures securely under the control of the executive branch, leading to what many perceive of as unjust, politicized prosecutions.<sup>36</sup>

### **Laws Preventing Extremism & Terrorism**

Because of the heightened danger and fear associated with acts of terrorism, counterterrorism legislation often allows state authorities to bypass typically required legal procedures, suspend otherwise guaranteed individual rights, and in general, to act with reduced judicial oversight. On grounds of necessity and efficiency, and in the name of national security, state officials are often given wide discretion to fight terrorism using any means available. As a result, counterterrorism legislation is especially vulnerable to governmental overreach. In the absence of strict legal safeguards and clear guidelines within the law, such laws can be, and have been, exploited by state authorities to silence legitimate dissent.

- **Egypt:** In 2014, three Al Jazeera English journalists were sentenced to between seven and ten years each for aiding a "terrorist organization," referring to the banned Muslim Brotherhood, and endangering Egyptian national security. The prosecution accused the three of producing false news reports, which helped the Brotherhood to spread "lies" harmful to national security.<sup>37</sup> At least seventeen other journalists and opposition figures face similar charges related to the same case.<sup>38</sup> Two other co-defendants in the case, a Dutch woman and two British citizens, were sentenced to ten years in absentia on the same charge of aiding a "terrorist group."<sup>39</sup> Media organizations around the world took part in a global day of protest commemorating the three Al Jazeera journalists' 100<sup>th</sup> day in prison while awaiting trial.<sup>40</sup> In addition, five different television channels were shut down, one affiliated with the Muslim Brotherhood and the others

---

<sup>35</sup> Freedom House: Freedom of the Press 2014 (Cuba), available at <https://freedomhouse.org/report/freedom-press/2014/cuba#.VPi42cZU87A>.

<sup>36</sup> *Id.*

<sup>37</sup> Much of the evidence provided by the prosecution reportedly had no relevance to the case; it included footage from channels and events with nothing to do with Egyptian politics or Al Jazeera. It included videos of trotting horses from Sky News Arabia, a song by the Australian singer Gotye, and a BBC documentary from Somalia. Many human rights observers said that the trial was meant to send a chilling message to all opposition figures in Egypt. See The Guardian, Al Jazeera Journalists Jailed for Seven Years in Egypt, June 23, 2014, available at <http://www.theguardian.com/world/2014/jun/23/al-jazeera-journalists-jailed-seven-years-egypt>.

<sup>38</sup> Egypt: High Price of Dissent, Human Rights Watch, February 20, 2014, available at

<http://www.hrw.org/news/2014/02/19/egypt-high-price-dissent>.

<sup>39</sup> Egypt Jails Al Jazeera Journalists, US calls Sentences 'Chilling,' Reuters, June 23, 2014 available at

<http://www.reuters.com/article/2014/06/23/us-egypt-jazeera-idUSKBN0EY0L720140623>.

<sup>40</sup> Journalists taped their mouths shut to show solidarity with the three and in protest against the repression of freedom of expression in Egypt more generally. Campaign to free Al-Jazeera Journalists Imprisoned in Egypt reaches 100<sup>th</sup> Day, The Guardian, April 8, 2014, available at <http://www.theguardian.com/media/2014/apr/08/campaign-al-jazeera-journalists-imprisoned-egypt-tape-mouths-100>.

affiliated with Salafist groups, for either being a “terrorist movement,” aiding a terrorist movement, or sympathizing with terrorist movements.<sup>41</sup> According to one often cited estimate, more than 41,000 were arrested in the period between the July 3, 2013 coup overthrowing President Morsi and May 15, 2014, with nearly 36,500 of those detained during political events, and 3,048 arrested for being members of the Muslim Brotherhood, which was declared a terrorist organization following Morsi’s ouster. Another 1,714 were detained or indicted during this same period specifically for terrorism and terrorism-related offenses.<sup>42</sup>

- **Jordan:** In 2014, the parliament passed a series of amendments to the 2006 Anti-Terrorism Law, which broaden the definition of terrorism to include, e.g., acts that would subject the kingdom to hostile acts, harm its relations with a foreign country, and spread the ideas of a group that undertakes an act of terrorism.<sup>43</sup> The penalties associated with the acts defining terrorism extend from 10 years in prison to the death penalty. In 2014, Jordanian military prosecutors charged the owner of an Amman-based television channel covering Iraqi news, along with thirteen staff members, under the terrorism law for “using the Internet to carry out acts that would expose Jordanians to acts of aggression.” The channel was known for being critical of the former Iraqi Prime Minister, Nuri al-Maliki; and the Iraqi government had complained to the Jordanian monarchy that the channel was “inciting terrorism and sectarian conflicts.” The suspects face up to five years in prison if convicted.<sup>44</sup>
- **Ethiopia:** According to the 2009 Anti-Terrorism Proclamation, “terrorist acts,” which are “punishable with rigorous imprisonment from fifteen years to life or with death,” include causing “serious damage to property,” “damage to natural resources, environment, historical or cultural heritages,” or “disruption of any public service.”<sup>45</sup> According to a leading observer of human rights in Ethiopia, “[s]ince Ethiopia’s anti-terrorism law was adopted in 2009, the independent media have been decimated by politically motivated prosecutions under the law.”<sup>46</sup> As one specific example, the law

---

<sup>41</sup> These channels were shut down by executive, not court, order for “inciting violence.”

<sup>42</sup> Carnegie Endowment for International Peace, Egypt, Counterterrorism, and the Politics of Alienation, August 20, 2014, available at <http://carnegieendowment.org/2014/08/20/egypt-counterterrorism-and-politics-of-alienation> (citing Wiki Thawra, an initiative of the Egyptian Center for Economic and Social Rights that has attempted to compile comprehensive statistics on human rights abuses since the January 2011 ouster of Hosni Mubarak).

<sup>43</sup> Jordan: Terrorism Amendments Threaten Rights, Human Rights Watch, May 18, 2014, available at <http://www.hrw.org/news/2014/05/17/jordan-terrorism-amendments-threaten-rights>.

<sup>44</sup> Jordan Slaps Iraq TV staff with Terror Charges, Al Arabiya, June 12, 2014, available at <http://english.alarabiya.net/en/media/2014/06/12/Jordan-slaps-Iraq-TV-staff-with-terror-charges-.html>.

<sup>45</sup> Ethiopia: Proclamation No. 652/2009, adopted July 7, 2009, see Part 2, Sect. 3, available at <http://www.refworld.org/docid/4ba799d32.html>.

<sup>46</sup> Ethiopia: Terrorism Law Decimates Media, Human Rights Watch, May 3, 2013, available at <http://www.hrw.org/news/2013/05/03/ethiopia-terrorism-law-decimates-media>.

was used in 2012 to convict an award winning journalist and blogger, well known for his articles criticizing the Ethiopian government, of conspiracy to commit terrorist acts and of participating in a terrorist organization. His arrest and conviction, for which he was given an eighteen year sentence, followed the online publication of a column he authored criticizing the prosecution of journalists and dissidents under Ethiopia's 2009 Anti-Terrorism Proclamation and calling for an end to politically motivated prosecutions. According to the United Nations Working Group on Arbitrary Detention, a panel of independent experts, his imprisonment was "a result of his peaceful exercise of the right to freedom of expression."<sup>47</sup> His eighteen-year sentence was upheld by the Ethiopian Supreme Court in 2013.

- **India:** The Unlawful Activities (Prevention) Amendment Act 2008, passed shortly after the November 26<sup>th</sup> Mumbai attacks that led to the death or injury of almost 500 individuals, has been used by the government, in conjunction with India's other counterterrorism and sedition laws, to target political opponents, tribal groups, and religious and ethnic minorities. Among those targeted include members of Kabir Kala Manch, a cultural group of singers, poets, performers, and artists, accused of promoting Maoism and of being members of a "terrorist organization."<sup>48</sup>
- **United Kingdom:** A 2006 counterterrorism law criminalizes any public statements that encourage acts of terrorism, including statements that glorify specific terrorist acts, even if the individual or group making the statement did not actually intend to encourage terrorism. The law also broadly defines terrorism to include action taken to advance any 'political, religious, racial or ideological' cause designed to influence the government of any country or international organization or to intimate any member of the public anywhere in the world. In 2009, the British police were accused of misusing this and other counterterrorism related laws in an effort to quash otherwise peaceful protests. A one-year inquiry was launched, resulting in a 70-page report produced by the joint committee on human rights detailing evidence of abuse of police powers under the Terrorism Act.<sup>49</sup>

### *Laws Regulating the Media*

An independent and uncensored press, which is critical to informing public opinion, is considered a cornerstone of democratic society and essential to ensuring the freedom of

---

<sup>47</sup> Id.

<sup>48</sup> India: Stop Misuse of Counterterrorism Laws, Human Rights Watch, June 26, 2013, available at <http://www.hrw.org/news/2013/06/26/india-stop-misuse-counterterrorism-laws>.

<sup>49</sup> Police accused of misusing terror laws against peaceful protests, The Guardian, March 22, 2009, available at <http://www.theguardian.com/uk/2009/mar/23/police-terrorism-protest-g20-law>.

expression.<sup>50</sup> Governments around the globe have attempted to control the media and its ability to influence public opinion using a variety of laws. By adopting legislation creating regulatory boards, oversight commissions, journalistic codes of conduct, and other means of media control, governments have used and manipulated existing laws to weaken the media's watchdog capabilities.

- **Burma/Myanmar:** In 2014, Parliament approved the Printers and Publishers Registration Bill, which grants the ministry the power to unilaterally withhold or revoke publishing licenses and contains vague language banning reports that “incite unrest,” “insult religion,” and “violate the Constitution.” Fines for violations range from \$100-\$500.<sup>51</sup>
- **Thailand:** Following the declaration of martial law by the Thai army on May 19, 2014, government orders suspended normal programming on radio, cable TV and satellite stations and the military ensured that only re-runs of military-approved programs were broadcast. At the same time, TV programs were prohibited from presenting the opinions of viewers through call-ins or text messages. Moreover, foreign reporters, including those from CNN, Fox, CCTV, CNBC, and Bloomberg, were asked to stop their reporting. CNN resumed its regular reporting on May 25, but under an agreement with the military not to interview any academics for their opinions or to present any information that could create disunity in Thailand.<sup>52</sup>
- **Kenya:** In 2013, two laws -- the Kenya Information and Communications (Amendment) Bill and the Media Council Bill -- were passed, granting the government extensive control over the broadcast media, imposing steep fines for deviations from a strict code of conduct, and creating a government-controlled and appointed regulatory board with broad powers to revoke journalists' accreditation, seize property, and impose fines of up to \$5,500 on individual journalists and \$230,000 on media companies for violations. The Kenya Union of Journalists characterized the law's passage as “a dark moment for Kenya's robust media environment,” which will likely “reverse gains made on freedom of expression and independence of media from state interference.”<sup>53</sup> The Kenyan High

---

<sup>50</sup> General Comment No. 34, at para. 13 (stating that “[a] free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression....It constitutes one of the cornerstones of a democratic society.”)

<sup>51</sup> President Signs New Media Laws, to Mixed Reaction from Journalists, The Irrawaddy, March 19, 2014, available at <http://www.irrawaddy.org/burma/president-signs-new-media-laws-mixed-reaction-journalists.html>.

<sup>52</sup> Army Declares Martial Law in Thailand; Government Wasn't Informed, Aide Says, CNN, May 19, 2014, available at <http://www.cnn.com/2014/05/19/world/asia/thailand-martial-law/>.

<sup>53</sup> Kenya Parliament Passes Draconian Media Laws, Committee to Protect Journalists, December 5, 2013, available at <http://www.cpj.org/2013/12/kenya-parliament-passes-draconian-media-laws.php>.

Court halted implementation of both laws in January 2014 due to questions regarding their constitutionality.<sup>54</sup>

- **Burundi:** In 2013, Burundi passed a media law that restricts journalists from reporting on certain topics, including topics that could affect Burundi’s “national unity; public order and security; morality and good conduct; honor and human dignity; national sovereignty; the privacy of individuals; and the presumption of innocence,” as well as issues involving “propaganda or the enemy of the Burundian nation in times of peace as of war” and “information that could affect the credit of the state and the national economy.” Journalists are required to have university degrees and a minimum of two years’ experience, and violators of the law face large fines ranging between \$2,000 and \$6,000.<sup>55</sup>
- **Ecuador:** In 2013, the Organic Law on Communications was passed, creating two new agencies to regulate and oversee the media, the Council for Information and Communication Regulation and Development and the Superintendence of Information and Communication. Together, the two new government entities are responsible for ensuring that the country’s newspapers, radio stations, and television networks remain in compliance with the law. The law grants the councils power to regulate content that is discriminatory or violence-related, and where violations are found, sanctions range from public apologies to hefty fines.<sup>56</sup> The law prohibits “media lynching,” defined as the “dissemination of information...with the purpose of discrediting or harming the reputation of a natural or legal person.” It makes media outlets responsible for the comments made by anonymous users on their websites, requiring them to publish or broadcast replies to their stories within seventy-two hours when a person’s “dignity, honor or reputation” is affected.
- **El Salvador:** In 2013, the Special Law for the Right to Rectification or Response was passed, requiring media outlets to publish verbatim “response letters” submitted by anyone who feels offended by any content within a 3-day window. Violators are subject to up to three years in prison, and the law applies to newspapers, television, radio, and online outlets, including blogs. The law has been criticized by human rights advocates

---

<sup>54</sup> Kenya: Freedom on the Net 2014, Freedom House, available at <https://freedomhouse.org/report/freedom-net/2014/kenya>.

<sup>55</sup> Burundi Passes Media Law Restricting Journalistic Freedom, Jurist, June 5, 2013, available at <http://jurist.org/paperchase/2013/06/burundi-passes-media-law-restricting-journalistic-freedom.php>.

<sup>56</sup> Ecuador passes controversial communications law, Global Voices, June 2013, available at <http://globalvoicesonline.org/2013/06/19/ecuador-passes-controversial-communications-law/>.

for failing to sufficiently define what constitutes offensive content or detailing who should decide whether someone has been offended.<sup>57</sup>

- **Jordan:** In 2013, Jordan’s telecommunications regulator blocked nearly 300 local news websites for not being properly registered as required under a 2012 amendment to Jordan’s “Press and Publications law.” Under the amended law, any “electronic publication that engages in publication of news, investigations, articles, or comments, which have to do with the internal or external affairs of the kingdom” must first register and receive a license from the Government’s Press and Publications Department.<sup>58</sup>
- **Venezuela:** The government continues to use a 2004 law, the Law on Social Responsibility in Radio, Television, and Electronic Media, amended in 2010, to impose restrictions on the media. It bans all media content that could “incite or promote hatred,” “foment citizens’ anxiety or alter public order,” “disrespect authorities,” “encourage assassination,” or “constitute war propaganda.” It obliges all broadcasters to broadcast official pronouncements by public institutions, which are frequent and random, irrespective of the broadcasters’ regular programming and without compensation. Under this law, the National Commission on Telecommunications has routinely penalized media outlets for presenting viewpoints unfavorable to the government, charging them with violating “democratic security” or engaging in “hate speech,” among other similar charges.<sup>59</sup> The result, according to media watchdogs, is a self-censored media that produces sanitized reporting and fails to publish information that might shed a negative light on the state.<sup>60</sup>
- **China:** In order to publish content of any kind and in any medium, individuals are required to first obtain a license, permit, or other official authorization.<sup>61</sup> Regulations

---

<sup>57</sup> Freedom House: Freedom of the Press 2014 (El Salvador), available at

<https://freedomhouse.org/report/freedom-press/2014/el-salvador#.VPiipcZU87A>.

<sup>58</sup> Jordan: Rescind Order to Block Websites, Human Rights Watch, June 4, 2013, available at

<http://www.hrw.org/news/2013/06/04/jordan-rescind-order-block-websites>.

<sup>59</sup> Freedom House: Freedom of the Press 2014 (Venezuela), available at

<https://freedomhouse.org/report/freedom-press/2014/venezuela#.VPi7WsZU87A>.

<sup>60</sup> Venezuela must respect human rights and free expression, Index on Censorship, February 28, 2014, available at <http://www.indexoncensorship.org/2014/02/venezuela-must-respect-human-rights-free-expression/>.

<sup>61</sup> Publishing related acts that require prior permission include: the publishing of news; publishing a newspaper, periodical, book or any other publication; engaging in the publication, production, copying, importing, wholesale, retail, or renting of audio-visual products; operating a facility to print or copy publications; importing publications without authorization; exhibiting imported publications without authorization; and publishing, producing, importing, or distributing magnetic, optical, or electronic media containing drawings, writings, sound, or pictures without authorization. For all list of all relevant legislation, go to: <http://www.cecc.gov/prior-restraints#LegislativePriorRestrains%20;%20http://www.cfr.org/china/media-censorship-china/p11515>.

adopted in 2001 give the government direct control over the amount, structure, distribution, and coordination of all publishing in the country. For example, anyone wishing to transmit news and to engage in other news publishing activities must first obtain the permission of the press and publication administration agency.<sup>62</sup> Another regulation allows non-news “units” to promulgate official government news at the federal or local level, but prohibits them from posting news from their own or other non-governmental sources.<sup>63</sup> More recently, a July 2014 directive requires mainland journalists to sign a secrecy agreement with their employers before obtaining a press pass; the agreement prohibits journalists from releasing information from interviews, press conferences or other events without first obtaining their employers’ consent.<sup>64</sup>

- **Cuba:** Considered to have among the most restrictive laws on free speech and press freedom in the Americas, the Cuban constitution allows “free speech” only if “in keeping with the objectives of a socialist society.” It also requires that “the press, radio, television, cinema, and other mass media never be private property,” but instead only “social property” owned and operated exclusively by the state.<sup>65</sup>

#### *Laws Governing ICT, Including the Internet*

The Internet and new information communication technologies (ICTs), which are now an integral part of everyday life for many individuals worldwide, have massively expanded the ways in which people impart and receive information, and the channels through which expression and the receipt of information can occur. Despite the fact that the UN Human Rights Committee has specifically stated that the right to freedom of expression includes all forms of electronic and Internet-based modes of expression, restrictions on ICTs, including the Internet, are on the rise, particularly legal restrictions that attempt to closely control the flow of information online.<sup>66</sup>

- **Turkey:** In 2014, Turkish officials blocked access to Twitter and YouTube after a series of leaks on social media sites helped to fuel a corruption scandal implicating Prime

---

<sup>62</sup> Notice Regarding Prohibiting the Transmission of Harmful Information and Further Regulating Publishing Order 2, Congressional-Executive Commission on China, Prior Restraints, available at <http://www.cecc.gov/prior-restraints#LegislativePriorRestraints%20;%20http://www.cfr.org/china/media-censorship-china/p11515>.

<sup>63</sup> Interim Provisions on the Administration of Internet Websites Engaged in News Posting Operations, Article 7, Id.

<sup>64</sup> China to grant ‘more’ press passes- but journalists must sign secrecy deal first, South China Morning Post, July 15, 2014, available at <http://www.scmp.com/news/china/article/1554664/china-grant-more-press-passes-journalists-must-sign-secrecy-deal-first>.

<sup>65</sup> 1992 Constitution of the Republic of Cuba, first adopted February 24, 1976, Art. 53

<sup>66</sup> See, for example: Freedom of Expression and ICTs: Overview of International Standards, Article 19, 2013, see pp.17- 26, available at <http://www.article19.org/data/files/medialibrary/37380/FoE-and-ICTs.pdf>; OSCE, Freedom of Expression and the Internet, 2010; the 2011 Report of the UN Special Rapporteur on Freedom of Expression, A/66?290, 10 August 2011.

Minister Recep Tayyip Erdogan and top officials in his government.<sup>67</sup> Coming on the eve of local elections, the Turkish government claimed that both Internet sites were threats to Turkish national security, relying on controversial new amendments to Turkey's Internet law that took effect in 2014. The amendments expand the government's censorship powers by enabling authorities, without court order, to block access to websites based on the subjective allegation that a posting violates an individual's private life.<sup>68</sup> Prime Minister Erdogan, who had repeatedly threatened to block popular Internet sites in the wake of the 2013-14 Gezi Park protests, is on record as referring to social media as "the worst menace to society."<sup>69</sup>

- **Russia:** In 2014, a law took effect granting the government broad powers to blacklist and block websites containing "extremist" content, calling for mass riots or participation in unsanctioned public gatherings, or publishing content otherwise harmful to public health, morals or safety. This law has been used to shut down various websites and blogs viewed as threatening, particularly those related to rising tensions in Ukraine, including platforms used by key opposition leaders.<sup>70</sup>
- **Brazil:** In 2013, a Brazilian Court issued an order against a protester banning him from demonstrating within a block of the construction site of a new property development, and from posting references to the developer on his Facebook page. The community activist was accused of engaging in activity "slanderous and offensive against a private initiative," and threatened with a \$5,000 fine for each infraction if he continued his

---

<sup>67</sup> The European Court of Human Rights found such "wholesale blocking of access" incompatible with the guarantees of the European Convention in *Yildirim v. Turkey*, Appl. No. 3111/10 (2012). A Turkish court lifted the ban on YouTube on April 4, 2014 a day after the Prime Minister ordered the Twitter ban lifted. See Report: Turkish Court Lifts Total YouTube Ban, CNN World, April 4, 2014, available at <http://www.cnn.com/2014/04/04/world/europe/turkey-youtube-ban-court/>.

<sup>68</sup> New Turkish Internet Legislation at Work: Twitter and YouTube Down, The Center for Internet and Society, Blog by Giancarlo Frosio, March 31, 2014, available at <http://cyberlaw.stanford.edu/blog/2014/03/new-turkish-internet-legislation-work-twitter-and-youtube-down> (quoting the justification given by the Turkish Presidency of Telecommunications and Communication (TIB) when the blocks went into effect: "after technical analysis and legal consideration based on the Law Nr. 5651, ADMINISTRATION MEASURE has been taken for this website (Youtube.com) according to Decision Nr. 490.05.01.2014.-48125 dated 27/03/2014 of Telekomünikasyon İletişim Başkanlığı.")

<sup>69</sup> Social Media and Opposition to Blame for Protests, says Turkish PM, The Guardian, June 2, 2013, available at <http://www.theguardian.com/world/2013/jun/02/turkish-protesters-control-istanbul-square>.

<sup>70</sup> Russia Blocks Web Content Amid Tension Over Ukraine, March 13, 2014, New York Times, available at [http://www.nytimes.com/2014/03/14/world/europe/russia-blocks-web-content-amid-tension-over-ukraine.html?\\_r=0](http://www.nytimes.com/2014/03/14/world/europe/russia-blocks-web-content-amid-tension-over-ukraine.html?_r=0).

physical and online protests. The order was later upheld by the Court of Justice in the State of São Paulo.<sup>71</sup>

- **Singapore:** In 2013, onerous new Internet regulations were announced, requiring sites “that report regularly on issues relating to Singapore and have significant reach” among local readers to apply for individual licenses, which are subject to annual review and renewal, to post a hefty “performance bond” of nearly \$40,000, and to remove any objectionable content within 24 hours upon receiving a government order. These new regulations add to existing regulations that impose strict limits on material deemed objectionable on grounds of morality, security, public interest, and social harmony.<sup>72</sup>
- **Vietnam:** In 2013, the Decree on Management, Provision and Use of Internet Services and Information Content Online, known as Decree 72, was adopted. It prohibits a whole range of content from being posted online including: content opposed to the Vietnam government; threatening to national security, social order or safety; in violation of “national fraternity”; or contradictive of national traditions, among others.<sup>73</sup> The Decree classifies websites into five different types and regulates each of their content. For example, personal websites cannot provide ‘general information,’ defined as “information collected from multiple sources about politics, economics, culture, or society.”<sup>74</sup> Blogs and social websites are restricted to exchanging only “personal information,” defined as original material generated by users. The law has been roundly condemned by international human rights observers, who have noted that Vietnam is “vaulting to the head of the crowd on internet censorship in South East Asia.”<sup>75</sup>
- **Belarus:** In 2012, ahead of parliamentary elections set for September, Belarusian officials began a media crackdown on online dissidents, arresting at least four moderators of two pro-opposition groups on the Russian social network, VKontakte. These moderators, who were responsible for overseeing the “We are tired of this Lukashenka” page, were allegedly interrogated and beaten, their apartments searched, and their laptops confiscated. One of the moderators was sentenced to five days in prison, and another to seven days, on charges related to disturbing public order. The

---

<sup>71</sup> Brazil: Court Approves Ban on Development Protestor, May 21, 2013, available at <http://www.article19.org/resources.php/resource/3756/en/brazil:-court-approves-ban-on-development-protestor>.

<sup>72</sup> Singapore Tightens Grip on Internet News Sites, The Wall Street Journal, May 29, 2013, available at <http://online.wsj.com/news/articles/SB10001424127887324412604578512571774044716>.

<sup>73</sup> Decree 72/2013-ND-CP, July 15, 2013, Art. 5.

<sup>74</sup> Id., Art. 3, Item 19.

<sup>75</sup> Rights groups take aim at Vietnam new internet laws, CNN, September 2, 2013, available at <http://www.cnn.com/2013/09/02/world/asia/vietnam-internet/>.

other two were released after lengthy interrogations about their online activities.<sup>76</sup> The government is also reported to have hacked into a number of online discussion forums, known for their criticism of the president and his policies, in order to remove content and to libel forum administrators.<sup>77</sup>

- **Egypt:** Amidst mounting political unrest leading up to the January 25, 2011 revolution, the Egyptian government cut off access to the Internet and mobile communications for five days, an unprecedented move in the history of the Internet.<sup>78</sup> This total Internet blackout came after the government had first blocked Twitter and Facebook in an attempt to end the anti-government protests.
- **Bahrain:** In 2010, Bahrain passed a law banning the use of BlackBerry chat groups because of the “chaos and confusion” resulting from sharing and distributing local news through such sites. Prior to resuming operation, all such groups were required to acquire a license from the Ministry of Culture and Information.<sup>79</sup> Later, in 2011, when popular protests began to erupt in the streets, the government began severely restricting access to the Internet, with user rates dropping by 10-20 percent.<sup>80</sup>
- **Venezuela:** In 2010, amendments were made to the Organic Telecommunications Law and the Social Responsibility on Radio and Television law, granting the government broad powers to monitor Internet activity. Under the 2010 amended law, Internet providers are prohibited from publishing any content that incites hatred, causes “anxiety or unrest among the public order,” or promotes the assassination of leaders. Internet providers are required to have mechanisms in place that, at the government’s immediate request, can restrict content posted online and access to websites found in violation of the law. The law covers all text, images, sound or context sent or received in Venezuela over the Internet. By mid-2014, the regulatory body responsible for overseeing this law had ordered the blocking of some four hundred online sites and portals; and in February of that year, Internet access was restricted for over 36 hours

---

<sup>76</sup> Media Crackdown in Belarus, Where Even Teddy Bears lead to Jail, The Guardian, September 4, 2012, available at <http://www.theguardian.com/media/greenslade/2012/sep/04/journalist-safety-belarus>.

<sup>77</sup> Human Rights Council: Rights to Peaceful Assembly Online Recognized, Article 19, October 1, 2012, available at <http://www.article19.org/resources.php/resource/3459/en/human-rights-council:-rights-to-peaceful-assembly-and-association-online-recognised>.

<sup>78</sup> Egypt Shuts Down Internet, Cellphone Services, Wall Street Journal, January 29, 2011, available at <http://online.wsj.com/news/articles/SB10001424052748703956604576110453371369740>. Reportedly, in only two other instances has a country blocked the whole Internet – in Myanmar during the 2007 protests and in Nepal in 2005 when the King seized power in a coup.

<sup>79</sup> Bahrain Bans Blackberry Chat Groups, Global Voices: Advocacy, April 12, 2010, available at <http://advocacy.globalvoicesonline.org/2010/04/12/bahrain-bans-blackberry-chat-groups/>. Apparently, many Bahrainis depend on such chat groups for their news.

<sup>80</sup> Internet Use in Bahrain Restricted, Data Shows, New York Times, February 18, 2011, available at <http://www.nytimes.com/2011/02/18/world/middleeast/18manama.html>.

and access to Twitter and Facebook was blocked during widespread anti-government protests.<sup>81</sup>

- **Iran:** Following the contested 2009 presidential elections that inspired wide-scale demonstrations and were partially organized through social media sites, the Iranian government heavily censored the Internet, allowing only certain sites and certain information to be viewed. Among the sites blocked were Facebook, Twitter and YouTube, which have continued to be blocked sporadically. Many Iranians complain that key sites allowing communication with individuals outside the country, such as Gmail and Skype, are often blocked as well. Iran now has its own national Internet network, which many have dubbed the “halal Internet,” a highly censored, higher speed government-run Internet that monitors the web activity of all users and makes it increasingly burdensome to use the regular Internet.<sup>82</sup>
- **India:** In 2008, the Information Technology Amendment Act (an amended version of the Information Technology Act of 2000) was hurriedly passed after the November Mumbai attacks. The Act imposes an up to three-year prison term for posting “offensive messages” online, including messages that are “grossly offensive,” have a “menacing character,” or cause “annoyance or inconvenience,” among other such reasons.<sup>83</sup> The Act requires Internet intermediaries, which include social networking sites, not to host, display, upload, modify, publish, transmit, update or share any information that is harmful, objectionable, affects minors, or is unlawful in any way.<sup>84</sup>
- **Thailand:** In 2007, the Computer Crimes Act (CCA) was enacted, which granted state authorities absolute control over the surveillance, censorship and control of communication flows over the Internet. Among other provisions, the CCA extends the criminalization of lèse-majesté (the act of offending the dignity of the existing ruler) to cyberspace and prohibits the publication of “false computer data....likely to cause injury to national security or public panic.” Such offenses are subject to prison sentences of up to five years and fines over \$3,000.<sup>85</sup> According to local reporting, the Ministry of ICT

---

<sup>81</sup> Venezuela cuts off Internet, blocks communication for protestors, Huffington Post, February 21, 2014, available at [http://www.huffingtonpost.com/2014/02/21/venezuela-internet- n\\_4832505.html](http://www.huffingtonpost.com/2014/02/21/venezuela-internet- n_4832505.html).

<sup>82</sup> Iran tightens Grip on Cyberspace with ‘Halal Internet,’ CNN, June 3, 2013, available at <http://www.cnn.com/2013/06/03/world/meast/iran-internet-restrictions-halal-internet/>.

<sup>83</sup> The ‘Unconstitutional’ Section 66A, Outlook, November 28, 2012, available at <http://www.outlookindia.com/article.aspx?283149>. For access to India’s Cyber-laws, go to: <http://deity.gov.in/content/cyber-laws>.

<sup>84</sup> India’s IT Act is Ill-Suited to Deal with Social Media, The Times of India, March 25, 2014, available at <http://timesofindia.indiatimes.com/tech/tech-news/Indias-IT-Act-is-ill-suited-to-deal-with-social-media/articleshow/32672372.cms>.

<sup>85</sup> Thailand’s Struggle for Freedom of Expression in Cyberspace, Tim Yu, July 21, 2013, available at <http://www.e-ir.info/2013/07/21/thailands-struggle-for-freedom-of-expression-in-cyberspace/>.

(MICT) has prevented access to over 100 websites deemed “threats” to the country since the May 22, 2014 military coup, including Facebook (though this was only temporary).<sup>86</sup> Since the MICT created the Cyber Security Operation Center (CSOC) in December 2011, over 20,000 URLs have been shut down.<sup>87</sup>

### **Laws Prohibiting Defamation and Libel**

Defamation and libel laws are designed to protect the public reputation of individuals by sanctioning the dissemination of false statements of fact damaging to an individual’s reputation. Defamation and libel laws are a widely accepted exception to the right to freedom of expression so long as they are limited to restricting a narrow category of speech and do not impose criminal sanctions or disproportionate civil penalties. In many parts of the world, however, defamation and libel laws are used to prevent open public debate and legitimate criticism of official wrongdoing. Indeed, according to a recent report, “criminal libel is among the top three laws used to imprison journalists,” and not only in countries with poor human rights records and weak rule of law, but in at least forty-seven state signatories to the European Convention on Human Rights.<sup>88</sup>

- **Bahrain:** Described as “one of the harshest media environments in the Middle East,” Bahrain operates under a 2002 Press Law, which imposes up to five years imprisonment for publishing comments critical of Islam or the King, or that advocate a change in the government.<sup>89</sup> This is in addition to defamation and libel laws, which are regularly used against organizations and media outlets for issuing statements critical of public officials or entities. In 2011, the main opposition newspaper, *Al-Wasat*, reportedly had its online audio reports suspended by the Ministry of Culture and Information after the newspaper featured interviews with detainees alleging mistreatment while in prison. In 2014, one of Bahrain’s most prominent human rights activists and president of the Bahrain Centre for Human Rights, Nabil Rajab, was sentenced to six months in prison after tweeting comments critical of Bahrain’s security institutions.<sup>90</sup> This was his latest in a string of prior arrests for critical comments and participation in anti-government demonstrations.<sup>91</sup>

---

<sup>86</sup> Thailand Temporarily Blocks Facebook to Silence Coup Protests, Mashable, May 28, 2014, available at <http://mashable.com/2014/05/28/thailand-blocks-facebook/>.

<sup>87</sup> More Than 100 Sites Have Shut Down in Thailand Since Start of Coup, Tech in Asia, May 26, 2014, available at <http://www.techinasia.com/100-sites-shut-thailand-start-coup/>.

<sup>88</sup> See Media Legal Defence Initiative, available at <http://www.mediadefence.org/stories/bid-end-abuse-criminal-libel-laws>.

<sup>89</sup> Bahrain: Freedom of the Press 2013, Freedom House, available at <http://www.freedomhouse.org/report/freedom-press/2013/bahrain#.VELFJ-fc07A>.

<sup>90</sup> Rajab’s tweet suggested that the Ministries of Interior and Defense were “ideological incubators” for terrorism and Islamic State militants. See Bahrain sentences leading activists Nabeel Rajab for tweet, RT, January 20, 2015, available at <http://rt.com/news/224559-bahrain-sentence-rajab-tweet/>.

<sup>91</sup> Freedom of the Press: Bahrain, Freedom House, 2013 Report.

- **Kyrgyz Republic:** In 2014, a new “False Accusation Law” was passed, making intentional defamation a criminal offense punishable by up to three years in prison. According to human rights activists, the prohibition against publishing “false information” contained in the law lends itself to abuse and arbitrary enforcement. This marked a backwards step for the Republic, as libel/defamation was decriminalized in 2011.<sup>92</sup>
- **Pakistan:** In 2014, Pakistan’s most viewed TV channel, Geo News, was shut down by the government’s media regulatory authority (PEMRA) after being accused of “false” and “scandalous” reporting, and specifically, defaming the Inter-Services Intelligence agency by accusing its chief of attacking a leading journalist in 2014. It was suspended for 15 days and fined over \$100,000.<sup>93</sup>
- **Sri Lanka:** By May 2014, the state-run Telecommunications Regulatory Commission blocked two news websites ([www.srilankamirror.com](http://www.srilankamirror.com) and [www.theindependent.lk](http://www.theindependent.lk)), which brought the total number of blocked websites to eight; each was known for being critical of the government.<sup>94</sup> In 2012, police similarly raided and closed two news websites, including [www.sriklankamirror.com](http://www.sriklankamirror.com), and arrested nine people including eight journalists on charges of defaming the President and reporting news in an “incorrect and vulgar manner.” They were later released but their computers were confiscated.<sup>95</sup>
- **Swaziland:** In 2014, two individuals, an editor for an independent news-magazine and a human rights lawyer, were re-arrested three days after being released from prison for writing articles criticizing the chief justice. Both were charged with contempt of court for “acting jointly and in furtherance of a common purpose” to “intentionally violate and undermine the dignity, repute and authority of the High Court in the Kingdom of Swaziland.”<sup>96</sup>
- **Indonesia:** A number of articles contained within the colonial-era Criminal Code, first adopted in 1965, provide penalties for defamation.<sup>97</sup> Public officials are given extra

---

<sup>92</sup> Kyrgyzstan Law Marks Backward Step for Press Freedom, Freedom house, May 20, 2014, available at [http://www.freedomhouse.org/article/kyrgyzstan-law-marks-backward-step-press-freedom#.U5tS9y\\_c07A](http://www.freedomhouse.org/article/kyrgyzstan-law-marks-backward-step-press-freedom#.U5tS9y_c07A).

<sup>93</sup> Geo TV Suspended for 15 Days for Defaming Pakistan Army, ISI, The Indian Express, June 6, 2014, available at <http://indianexpress.com/article/world/asia/geo-tv-suspended-for-15-days-for-defaming-pakistan-army-isi/>.

<sup>94</sup> Sri Lanka blocks two more websites critical of the government: rights group, Reuters, May 21, 2014, available at <http://www.reuters.com/article/2014/05/21/us-sri-lanka-censorship-media-idUSBREA4K0WM20140521>.

<sup>95</sup> Id.

<sup>96</sup> MISA Condemns arrest of Swazi lawyer and journalist, Media Institute of Southern Africa, available at <http://www.misa.org/component/k2/item/2743-misa-condemns-arrest-of-swazi-lawyer-and-journalist?Itemid=101>.

<sup>97</sup> Articles 207, 310-21, and 335 impose criminal penalties for defamation-related charges.

layers of protection from defamatory acts under the law. Under Article 316, where the complainant of defamation is a public official, punishments can increase by a third. Under Article 207, anyone who deliberately “insults an authority or a public body” is subject to up to a year and a half in prison. And under Article 208, anyone who disseminates, demonstrates or otherwise publishes pictures or text containing insults against authorities or public bodies is subject to up to four months imprisonment or a fine. Additionally, Law No. 11/2008 Regarding Electronic Information and Transactions (ITE) prohibits defamatory statements made over the Internet, which can result in up to six years’ imprisonment and a fine of up to (approximately) \$106,000.<sup>98</sup> Individuals accused of defamation under the ITE can be held without trial for up to 50 days if there is fear of escape, damage to evidence, or recidivism.<sup>99</sup>

In 2014, a man was found guilty of violating the EIT law for making critical comments about an Indonesian politician on his Twitter account. He was sentenced to one year of probation, which sparked nationwide protests.<sup>100</sup> Similarly, in 2009 three activists from the Coalition of Students and People of Tasikmalaya were charged with defamation after holding an anti-corruption demonstration against a local education official; a veteran reporter (Bersihar Lubis) was convicted of defaming the attorney general for criticizing his decision to ban a history textbook in an opinion column; and journalist Risang Bima Wijaya was convicted of defamation and served six months in prison after publishing unflattering articles about a local media figure.<sup>101</sup>

- **Thailand:** Article 112 of Thailand’s Criminal Code punishes those found guilty of “defaming, insulting or threatening the king, queen or heir to the throne or regent” with a sentence of up to fifteen years in prison. The Thai government has used Article 112 repeatedly to punish and deter critics of the government, as well as scholars, who are prevented under a 2013 holding by the Thai Supreme Court from criticizing previous serving monarchs as well.<sup>102</sup> In 2013, the Bangkok Criminal Court found Somyot Preuksakasemsuk, a labor rights activist and prominent magazine editor, guilty of

---

<sup>98</sup> Law No. 11/2008 Regarding Electronic Information and Transactions, <http://www.docstoc.com/docs/22294620/Law-of-The-Republic-of-Indonesia-Number-11-of-2008-Concerning-Electronic-Information-and-Transactions> (unofficial English translation by ABNR Counsellors at Law), see Article 27 & 45.

<sup>99</sup> Id., Art. 21(1) (listing the bases for ordering pre-trial detention) and Arts. 24-15 (authorizing up to 20 days pre-trial detention on an order issued by an investigator and authorizing an additional 30 days detention upon permission of a district court).

<sup>100</sup> Indonesian Man Convicted of Libel on Twitter, Protest Surges Over Draconian Internet Law, Tech in Asia, February 5, 2014, available at <http://www.techinasia.com/cyber-law-twitter-libel-indonesia-guilty/>.

<sup>101</sup> Criminal Defamation Laws in Indonesia Stifle Democracy, Human Rights Watch, June 10, 2010, available at <http://www.hrw.org/news/2010/06/10/criminal-defamation-laws-indonesia-stifle-democracy>.

<sup>102</sup> Lese Majeste Ruling on Past Monarchs a Research Blow, University World News, November 29, 2013, available at <http://www.universityworldnews.com/article.php?story=20131129123528562>.

violating Article 112 for allowing the publication of two articles in the *Voice of Taksin* that were deemed critical of the monarchy. He was sentenced to ten years in prison, plus another year for an earlier suspended sentence for defamation.<sup>103</sup>

- **Belarus:** In 2012, a prominent journalist and critic known for his oppositional publications was arrested and charged with libel after criticizing the President in various articles. This arrest followed a string of earlier arrests, charges, convictions, confiscations, and raids on his apartment, all in response to his critical journalism.<sup>104</sup> In Belarus, the criminal code prohibits libel and defamation, in addition to “insulting the President of the Republic of Belarus,” “insulting the representatives of the authorities,” and “discrediting the Republic of Belarus.”<sup>105</sup> At least six articles in the criminal code provide criminal liability for defamation.
- **Jordan:** In 2012, four Jordanian activists were detained for “disrespecting the King,” a charge carrying a three-year prison term, during a sit-in calling for increased job opportunities for the unemployed. In 2010, a student was arrested for “offending the king” while chatting with a friend online.<sup>106</sup>
- **Russia:** In 2012, Russia adopted a law re-criminalizing libel and slander only six months after both were decriminalized. The law defines slander as “knowingly disseminating false information defaming the honour and dignity or undermining the reputation of another person,” and reinstates criminal penalties for offences, some of which are harsher than the previous penalties.<sup>107</sup>

### Laws Restricting Specific Content

Governments have enacted legislation banning, and in some instances criminalizing, entire categories of speech. These laws typically involve overly broad bans on alarming or prejudicial statements, such as words that incite violence or considered ‘hate speech.’ In other cases, these proscriptions restrict the content of expression related to certain topics such as homosexuality,

---

<sup>103</sup> Thailand: Editor Convicted for Insulting Monarchy, Human Rights Watch, January 23, 2013, available at <http://www.hrw.org/news/2013/01/23/thailand-editor-convicted-insulting-monarchy>.

<sup>104</sup> Belarus, journalist arrested, charged with libel, Committee to Protect Journalists, June 21, 2012, available at <http://www.cpj.org/2012/06/in-belarus-journalist-arrested-charged-with-libel.php>.

<sup>105</sup> See Articles 188, 189, 367, 368, and 369.

<sup>106</sup> Jordanian Activists Detained for Criticizing King Abdullah II, Freedom House, March 15, 2012, available at [http://www.freedomhouse.org/article/jordanian-activists-detained-criticizing-king-abdullah-ii#.U5yW7y\\_c07A](http://www.freedomhouse.org/article/jordanian-activists-detained-criticizing-king-abdullah-ii#.U5yW7y_c07A).

<sup>107</sup> Russia President Signs Law Re-Criminalizing Libel and Slander, Jurist, July 30, 2012, available at <http://jurist.org/paperchase/2012/07/russia-president-signs-law-re-criminalizing-libel-and-slander.php>.

which has been the source of increased legislative attention in recent years in various parts of the world.<sup>108</sup> Without safeguards in place, such laws violate the right to freedom of expression, which, according to the Human Rights Committee, protects not only valuable speech, but “deeply offensive” speech as well.<sup>109</sup>

- **Uganda:** The President signed into law the Anti-Homosexuality Act of 2014, prohibiting homosexual relationships by penalty of life imprisonment. The law also prohibits “promotion of homosexuality,” discouraging all forms of advocacy on behalf of homosexual or LGBT rights. Indeed, any person or organization, including non-governmental organizations, that in any way promote homosexuality are subject to a fine and up to seven years in prison; where the offender is an organization, its certificate or registration will be revoked, in addition the director’s imprisonment.<sup>110</sup> As of May 2014, there had been over 162 documented cases of anti-homosexual persecution in the country.<sup>111</sup>
- **Nigeria:** The Same Sex Marriage Prohibition Act, signed into law in 2014, not only criminalizes acts of intimacy with members of the same sex, but also the witnessing, aiding, or showing (whether directly or indirectly) of same sex “amorous relationship[s].” Moreover, anyone who “supports the registration, operation and sustenance of gay clubs, societies, organizations, processions or meetings” is subject to ten years imprisonment.<sup>112</sup>
- **Pakistan:** In recent years, Pakistan has witnessed a splurge in charges, convictions and death sentences for violations of their colonial-era blasphemy laws, which impose “mandatory death” for anyone convicted of defiling, whether directly or indirectly, the name of the Prophet Muhammad.<sup>113</sup> A life sentence is imposed for those convicted of willfully desecrating the Quran.<sup>114</sup> In 2014, death sentences were given to a Christian woman accused of insulting the Prophet and an allegedly mentally unstable man for

---

<sup>108</sup> According to The International Lesbian, Gay, Bisexual, Trans and Intersex Association, 78 countries in the world make homosexuality illegal. See Erasing 76 Crimes, 78 Countries where homosexuality is illegal, Updated Jan. 16, 2015 available at <http://76crimes.com/76-countries-where-homosexuality-is-illegal/>.

<sup>109</sup> General Comment No. 34, at para. 11.

<sup>110</sup> See Section 13(2).

<sup>111</sup> This figure is according to a report published by Sexual Minorities: From Torment to Tyranny: Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014, 20 Dec 2013- 1 May, 2014, available at <http://www.sexualminoritiesuganda.com/Torment%20to%20Tyranny%2009-05-2014%20FINAL.pdf>. In contrast, the number of incidents of persecution in the year preceding passage of the Anti-Homosexuality Act was 8, and in the whole of 2012, was 19.

<sup>112</sup> Same Sex Marriage (Prohibition) Act, 2013, available at <http://www.placng.org/new/laws/Same%20Sex%20Marriage%20%28Prohibition%29%20Act,%202013.pdf>.

<sup>113</sup> Pakistan’s Criminal Code, Section 295C.

<sup>114</sup> Id. at Section 295B.

writing offensive statements about Islam on walls.<sup>115</sup> Also in 2014, sixty-eight lawyers were charged with blasphemy for protesting police brutality, during which the lawyers were accused of defiling the name of one of the Prophet's companions. If convicted, the men face up to three years in prison.<sup>116</sup>

- **Burma/Myanmar:** Article 505(b) of Burma's Penal Code criminalizes the spreading or making of statements that can "alarm the public" or that can induce "any person...to commit an offence against the state," punishable by up to two years in prison. In 2014, three journalists and two journal editors were convicted under this law and sentenced to the maximum prison term of two years after the journal ran a story quoting an activist who mistakenly claimed that an opposition leader had formed an interim government. Immediately upon publication, the journal was shut down and the individuals involved in the story were arrested.<sup>117</sup>
- **Russia:** In 2013, the Russian State Duma, in a vote of 436 to 0 with one abstention, approved a bill banning all "propaganda of non-traditional sexual relationships" among minors. The bill makes it illegal to equate heterosexual and homosexual relationships, to distribute material on homosexual rights, and to promote "non-traditional relations." It introduces hefty fines for individuals and media groups found guilty of violating the law, and authorizes special fines and deportation orders for foreigners.<sup>118</sup> On the same day this law was passed, the Duma passed a separate law criminalizing "public actions expressing clear disrespect for society and committed with the goal of offending religious feelings of the faithful," punishable with jail terms of up to three years and hefty fines. This law, which was passed in response to the band Pussy Riot's public performances, also criminalizes public desecration of religious objects or books. Members of Pussy Riot were convicted of "hooliganism motivated by religious hatred" and sentenced to two years in prison after a peaceful, yet provocative, political performance in a Moscow church.<sup>119</sup>

---

<sup>115</sup> Pakistan court upholds death sentence for Christian woman accused of blasphemy, Jurist, October 17, 2014, available at <http://jurist.org/paperchase/2014/10/pakistan-court-upholds-death-sentence-for-christian-woman-accused-of-blasphemy.php>.

<sup>116</sup> Pakistan police charge 68 lawyers with blasphemy, the Jurist, May 14, 2014, available at <http://jurist.org/paperchase/2014/05/pakistan-police-charge-68-lawyers-with-blasphemy.php>.

<sup>117</sup> Courts Sentences 3 Journalists, 2 Media Owners to 2 Years in Prison, The Irrawaddy, October 16, 2014, available at <http://www.irrawaddy.org/burma/court-sentences-3-journalists-2-media-owners-2-years-prison.html>.

<sup>118</sup> Russia Passes Law Banning Gay 'Propaganda,' The Guardian, June 11, 2013, available at <http://www.theguardian.com/world/2013/jun/11/russia-law-banning-gay-propaganda>.

<sup>119</sup> Band member Ekaterina Samutsevich received a conditional sentence on appeal and was released on October 10, 2013.

- Malaysia:** Part IV of the Printing Presses and Publications Act 1984 discusses the “control of undesirable publications,” and authorizes the government to prohibit the printing, importation, production, or publishing of any material that is “in any manner prejudicial to or likely to be prejudicial to public order, morality, security,” is likely to “alarm public opinion,” or likely “to be contrary to the law or is otherwise prejudicial to or is likely to be prejudicial to” public or national interest.<sup>120</sup> This law was amended in 2012, repealing a provision that required all publishers and printing firms to obtain an annual operating permit, but retaining most of the other restrictive measures, including the home minister’s authority to suspend or revoke publishing licenses. In 2013, the Home Affairs Ministry suspended a weekly magazine, *The Heat*, for allegedly violating the terms of its publishing license, and seized copies of two different opposition party newspapers for breach of permit conditions.<sup>121</sup>
- Rwanda:** Following the 1994 genocide, Rwanda adopted a series of laws intended to prevent the recurrence of ethnic violence, including laws designed to prohibit certain types of speech pertaining to genocide. The 2001 Law on Instituting Punishment for the Offences of Discrimination and Sectarianism, the 2003 Law on Repressing the Crime of Genocide, Crimes Against Humanity and War Crimes, and the 2008 Law Related to the Punishment of Genocide Ideology are three such laws, often referred to as the “genocide denial laws.”<sup>122</sup> The laws have been criticized by judges, lawyers and human rights defenders alike for containing vaguely defined offences capable of suppressing legitimate expression. In 2010, the female leader of a coalition of opposition parties, Victoire Ingabire, was placed under house arrest and charged with various offences under these laws, including genocide ideology and genocide denial. After a high-profile court battle, during which many international human rights defenders came to her defense, Ingabire was sentenced by the Supreme Court in 2013 to fifteen years in prison for “belittling” the 1994 genocide and threatening state security.<sup>123</sup>

## Conclusion

As can be seen from the lengthy list of examples cited above, which includes only a small sample of the universe of examples available, the law has been used in numerous ways to restrict the

<sup>120</sup> Printing Presses and Publications Act 1984, Part IV, Art. 7, available at <http://www.agc.gov.my/Akta/Vol.%207/Act%20301.pdf>.

<sup>121</sup> Freedom House: Freedom of the Press 2014, Malaysia, available at <https://freedomhouse.org/report/freedom-press/2014/malaysia#.VPd-MZU87A>. Freedom House describes Malaysia’s “press status” as “not free.”

<sup>122</sup> Yakare-Oule (Nani) Jansen, Denying Genocide or Denying Free Speech? A Case Study of the Application of Rwanda’s Genocide Denial Laws, *Northwestern Journal of International Human Rights*, Vol. 12, Iss. 2, Art. 3 (Spring 2014), at p. 195.

<sup>123</sup> Victoire Ingabire: Rwanda leader’s jail term raised, BBC, December 13, 2013, available at <http://www.bbc.co.uk/news/world-africa-25371874>.

freedom of expression around the world. These restrictions cross all cultural, religious, political, and national boundaries, appearing in every geographical region and invoked by every type of regime. From the United Kingdom to Burma, from democracies to traditionally authoritarian states, almost all nations and almost every type of civil society actor has experienced or witnessed the tide of restrictions aimed at narrowing the freedom of expression seen in recent years.

A number of creative and modern initiatives designed to strengthen the right to free expression have been launched in recent years. The Freedom of the Press Foundation uses crowd-sourcing to fund journalistic organizations focused specifically on pushing for transparency and accountability in places where freedom of expression is most restricted. The Index on Censorship offers annual “Freedom of Expression Awards” to those voted as the world’s most remarkable fighters for free expression. The Committee to Protect Journalists has launched the “Critics are not Criminals” campaign to push for the decriminalization of defamation around the world. The Witness project supports and trains activists around the globe to use cell phone videos to expose human rights abuses, including restrictions on free expression; and the MacArthur Foundation recently distributed nearly ten million dollars in grants for innovative projects seeking to defend free expression. These initiatives and many others provide hope for a future where the inviolability of the right to freedom of expression is respected by all and reflected in all national legislation.