

# YEAR IN REVIEW

FREEDOM OF  
EXPRESSION



# YEAR IN REVIEW FREEDOM OF EXPRESSION

## CIVIC SPACE AND THE FREEDOM OF EXPRESSION

### ABOUT THIS REPORT

Each year the CIVICUS State of Civil Society Report examines the major events that have involved and affected civil society around the world. We seek to celebrate our achievements as civil society, identify the challenges we have faced and assess how recent events have impacted on civil society, as well as how civil society has responded to them. This section of the report looks at the freedom of expression as a vital facet of the space for civil society. Other sections discuss the current crisis of democracy and its implications for civil society, citizens' mobilisations in protest movements and the international-level actions of civil society.

Our report is of, from and for civil society. As well as the four parts of our year in review, our report has a special section on this year's theme, civil society and the private sector, including 27 guest contributions from civil society activists, leaders, experts and stakeholders, and a thematic essay that draws from those contributions. This report is also informed by responses to our annual survey of members of our Affinity Group of National Associations (AGNA), made up of national and regional-level civil society coordination and membership bodies, and a series of interviews with members of our alliance who were close to the year's major stories. We are very grateful to all our contributors for their efforts in helping to develop this report.

### A GROWING INTOLERANCE OF DISSENT

Civil society's ability to respond to the current regressive politics, described in part one of this review, as well as react to new challenges as they arise, is hindered by conditions of limited space for civil society. Space for civil society – civic space for short – largely depends on the extent to which the three core civil society freedoms – of association, assembly and expression – are respected.

With politics taking a regressive, populist turn in many countries, the expression of dissent about ruling parties and leaders is increasingly seen as a political act, rather than as a normal part of a functioning democracy. This is adding to the pressure on the freedom of expression. Civil society, when it tries to speak out, can find communication channels constrained. States and their leaders may use their power over media to censor and suppress alternative opinions. They may accuse the media and civil society of spreading fake news and use this to attack and restrict them. They may apply arcane laws, such as those on criminal defamation. They may tighten online space. Journalists who try to cover dissenting voices can experience harassment, detention and physical violence.

Past State of Civil Society Reports have argued that civil society needs to pay particular attention to attacks on and restrictions of journalists, because wherever journalists are repressed, so are civil society activists, and often for the same reasons. Indeed, in many contexts, making a distinction

between journalists and civil society activists who are active in traditional and new media is neither easy nor useful. The [CIVICUS Monitor](#), our new online platform that assesses the quality of civic space in every country, records [101 attacks](#) on journalists between June 2016 and March 2017. Its reports indicate that journalists were most at risk of verbal or physical attack for reporting on political issues, protests, conflicts and state corruption.

The International Press Institute (IPI) provides further evidence of the risks that journalists face, [reporting](#) that at least 83 journalists died as a direct result of their practice in 2016, with almost half of all deaths occurring when journalists were covering armed conflict, particularly in Iraq, Syria and Yemen. Journalists were also attacked on the basis of their ethnicity, political leanings or religious affiliations in several highly charged and polarised contexts, including Bangladesh, India, South Sudan and Turkey.

Further, the Committee to Protect Journalists' (CPJ) annual [Impunity Index](#) highlights the worst countries for cases of unsolved murders of journalists, and the key sources of threats against journalists in conditions where assailants are likely to get away with murder. One major source of threat identified by CPJ is extremist Islamist groups, particularly in conflict locations, with concentrations of un-investigated killings in Iraq, Somalia and Syria, as well as attacks in Afghanistan, Bangladesh, Nigeria and Pakistan.

## EXTREMIST ATTACKS ON THE FREEDOM OF EXPRESSION

While the CIVICUS Monitor's analysis makes clear that the state is the major source of danger for civil society rights, in some countries, the threat is more complex: attacks on civil society may be enabled by a weak state unable to ensure the rule of law or assert the state's authority over a territory, particularly in conditions of polarisation and conflict. Elements of the state may also be entangled with extremist forces.

[Bangladesh](#) is one country where both extremist forces and the state present a threat to the freedom of expression. The [2016 State of Civil Society Report](#) reported on a string of killings against secular bloggers and activists. This was indicative of a larger trend: the [CIVICUS Monitor](#) records that some 89 dissenting voices were similarly silenced in 2015 and the first half of 2016, and 74 journalists were allegedly tortured in the first half of 2016. The situation has not improved: Bangladesh civil society organisation (CSO) [Odhikar](#) reported that between August and November 2016, at least 26 people were 'disappeared', as many as 69 were extrajudicially killed, and 12 journalists were injured, with the security forces suspected of carrying out attacks. The

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violence continued into 2017: in [February 2017](#), journalist Abdul Hakim Shimul died after being hit by stray bullets in a conflict between rival members of the ruling party.

Violence is not the only threat. In August 2016 alone, the state [blocked](#) over 30 websites and [detained three journalists](#) for spreading rumours about the prime minister's son. Surveillance and investigation of CSOs increased after two terrorist attacks in the capital, Dhaka, in [July 2016](#), with the state accusing some CSOs of links to extremists. The state also [secretly detained](#) some people who had been held hostage in the attacks. Meanwhile the state seemed to be more concerned with protecting economic interests when it [arrested a reporter](#) covering a strike by garment workers who make clothes for major international chains in December 2016.

A [Bangladeshi civil society activist](#) we interviewed, who asked to remain anonymous, suggests that the state's failure to secure the rule of law, in a context of high polarisation where the normal rules of political competition have collapsed, has enabled extremism.<sup>1</sup>

*The rule of law is non-existent. Therefore there is a huge political vacuum that allows political extremism to grow. At the same time the government wants to project itself as the only custodian of 'secularism' and therefore seeks to project mainstream political opponents and the anti-government youth as 'extremist' so that it can use lethal actions to silence them.*

*The freedom of expression has been curtailed and most media are either directly controlled by the government or receive instructions from the intelligence agencies. Bloggers, online activists and foreign citizens have been attacked and killed in Bangladesh since 2013.*

The activist further suggests the state may be complicit in extremist attacks. Independent dissent is attacked because it goes against the state's attempt to control the media and characterise dissent as extremism. Meanwhile the state seeks to position itself as the only force capable of combating extremism:

*Although killings have been reportedly claimed by an 'Islamist extremist group', people also suspect that the intelligence agencies might have a hand in the killings, as the government is a beneficiary of such attacks: it takes advantage of attacks to silence the main opposition parties and dissenting voices. The prime minister has blamed the main*

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<sup>1</sup> This is an edited extract of an interview conducted in July 2016. The full interview is available at <http://bit.ly/2ldMnNS>.

*opposition political parties for targeted killings, and in July 2016 the law enforcement agencies detained 15,000 people in a mass arrest drive.*

*There is already huge polarisation in society. People have no trust in the law enforcement agencies or the government. The right to the freedom of opinion and expression is seriously curtailed due to the random application of repressive laws. The reality is that if the opinion of any citizen is against the government they are arrested or harassed by the state. This is already a low-intensity conflict situation that might escalate.*

*In Bangladesh today no one is safe, except the people who receive patronage from the present regime. In recent years ruling Awami League party members have grabbed the land of poor people belonging to the religious minority groups, and at the same time the so-called 'extremist' attacks are happening to them. Even many of these attacks on the temples belonging to Hindus and Buddhists have been conducted by party activists of the Awami League, as stated by victims and eyewitnesses. As the rule of law is absent and the justice delivery system is not functioning, the perpetrators were not punished and people belonging to minority communities are very vulnerable.*

In this context, dissent, even when exercised against extremism, is seen as a threat by the state, and activists and journalists can find themselves under attack on two fronts, by extremists and the state simultaneously.

Similarly, as the Pakistan NGO Forum, an AGNA member, relates, both extremist groups and the state threaten civil society in [Pakistan](#), with the state's anti-civil society rhetoric enabling extremist attacks:<sup>2</sup>

*On the one hand, state institutions, including intelligence agencies, have started suspecting CSOs, particularly those working on human rights, of collusion with the west, and have introduced policies and procedures to strangle their work and functioning. On the other hand, extremist organisations are continuously targeting activists, considering them agents of the west. Running a simple human rights-based organisation has become a great deal more dangerous*

The state is [frequently accused](#) of failing to protect vulnerable groups, including online activists, in a context where the freedom of expression is [widely abused](#). Five anti-Taliban activists, with active blogging and social media presences, [went missing](#) in January 2017. As well as campaigning against the Taliban, the activists were critical of the government's lack of action against extremism, and of the military's human rights abuses. Their websites and blogs were also [taken offline](#). The disappearance of

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<sup>2</sup> All Affinity Group of National Associations (AGNA) contributions in this report are edited extracts from a survey of AGNA members conducted between December 2016 and March 2017. The responses will be published separately in full.

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the five, in a country where incidents of enforced disappearances by security forces run into [huge numbers](#), sparked [street protests](#) and [online calls](#) for their safe return. The apparent abductions were condemned by David Kaye, the United Nations (UN) [special rapporteur](#) on the freedom of expression and the [Human Rights Commission of Pakistan](#). In addition to going missing, the five were the subject of a [complaint about blasphemy](#) for their postings, highlighting how the [Blasphemy Law](#) can be used to curb dissent. Along with their supporters, they were smeared and threatened by extremists on social media.

The five [resurfaced](#) in equally shadowy circumstances in late January 2017. They headed abroad for their safety, and [none of the five](#) was initially prepared to speak out; in March 2017, one of the activists, [Waqas Goraya](#), stated that he had been abducted and [tortured](#) and had been so shaken that he was not yet able to resume blogging. Security forces were suspected of being behind the abductions. A further concern was the [lack of government action](#) to investigate the case.

The five were not the first to be threatened by extremists for speaking out. In May 2016, another blogger, [Khurram Zaki](#), was murdered after blogging about extremism and calling attention to the role of extremist religious leaders. A prominent Sufi musician, [Amjad Sabri](#), was killed in June 2016, apparently by extremists. In March 2017, [three more bloggers](#) were charged with blasphemy in an anti-terrorism court, and the following month, prominent activist [Riaz Ahmed](#) was arrested and detained while on his way to a press conference to demand the release of another detained activist. It seems clear that he was detained because of his support for people accused of blasphemy. In April 2017, the state also announced that it was [investigating](#) CSOs for allegations of spreading blasphemy and pornography on social media. Whether from extremist groups or the state, the threat to social media activists is the same.

These attacks are indicative of a broader restricted climate for the freedom of expression, in which the state has suspended TV channels and blocked the broadcast of programmes. Repeated disruption of the Geo News TV station [sparked protest rallies](#) in several Pakistan cities in August 2016. While internet penetration has increased, the state has introduced a range of internet surveillance tools, and remains [highly interventionist](#) in blocking content, with the cooperation of large internet companies. In March 2017, the government [asked Facebook](#) and Twitter to identify Pakistani citizens, including those abroad, posting material considered insulting to Islam, which could result in blasphemy charges and a potential death sentence. The government also announced that Facebook had [removed](#) 85 per cent of content it had asked to taken down on blasphemy grounds. The [Prevention of Electronic Crime Act](#), passed in [August 2016](#), gives the state further [broad powers](#) to remove online content. Given its dismal track record on the freedom of expression, civil society cannot trust the state to use its powers wisely.

## TACTICS OF RESTRICTION

Fresh evidence on freedom of expression challenges comes from the wave of [Enabling Environment National Assessments](#) (EENA) completed in 22 countries in Africa, the Americas and Asia in 2016.<sup>3</sup> Across the countries, civil society applied the common methodology of the EENA tool, developed by CIVICUS and the International Center for Not-for-Profit Law (ICNL).

The EENA reports as a whole make clear that constitutional guarantees on the freedom of expression are often undermined, including by recently introduced anti-terrorism laws, such as in Cameroon, Jordan and Tunisia. States may have excessive and broad powers to subvert constitutional freedom of expression guarantees, noted for example in Honduras, Nepal and Tajikistan. Laws on criminal defamation, libel and slander, often out of date, impose heavy sanctions, notably in Cambodia, Panama and Zambia, and may be subject to political manipulation: in Zambia there are several instances of government figures bringing criminal defamation cases to silence critics. Criticism of the president is criminalised in Benin, Lebanon and Zambia, as is criticism of the king in Jordan. These threats are real: in January 2017, [eight people were detained](#) in Jordan on charges of ‘insulting the king’ and ‘incitement to spread chaos to undermine the political regime of Jordan’ for posting on social media.

The EENA research also identifies challenges around media ownership and state intervention. In some countries, including Mexico and Panama, heavy concentration of media ownership works against the expression of a diversity of voices, and in others, such as Bolivia and Cambodia, the state and ruling party closely control key media. In Cambodia, Uganda and Zambia, state officials may intervene to suspend broadcasting licences.

As discussed in part one of this review, elections can highlight and exacerbate challenges. Concentrations of media ownership and resulting media bias were identified as a problem in [Moldova’s](#) tightly-fought [October 2016](#) election. State interference in the media was seen in [Zambia](#) in 2016 around the time of its general election: in August 2016, the state [suspended the licences](#) of three TV and radio stations and detained four of their staff; in October 2016, the director of a community radio station was [beaten by the police](#), one of a number of [attacks on journalists](#); and in November, the police [arrested five people](#) from a radio station that they accused of being sympathetic to the opposition. [Wilson Pondamali](#), a freelance investigative journalist and media activist, provides more information on these occurrences:<sup>4</sup>

*Zambian broadcast media, except the national broadcaster Zambia National Broadcasting Corporation (ZNBC), are all regulated by the not so independent Independent Broadcasting Authority (IBA). The IBA board and director-general are appointed by the minister of information and its offices are located at the government-owned mass media complex that also houses ZNBC and another government media agency, Zambia News and Information Services.*

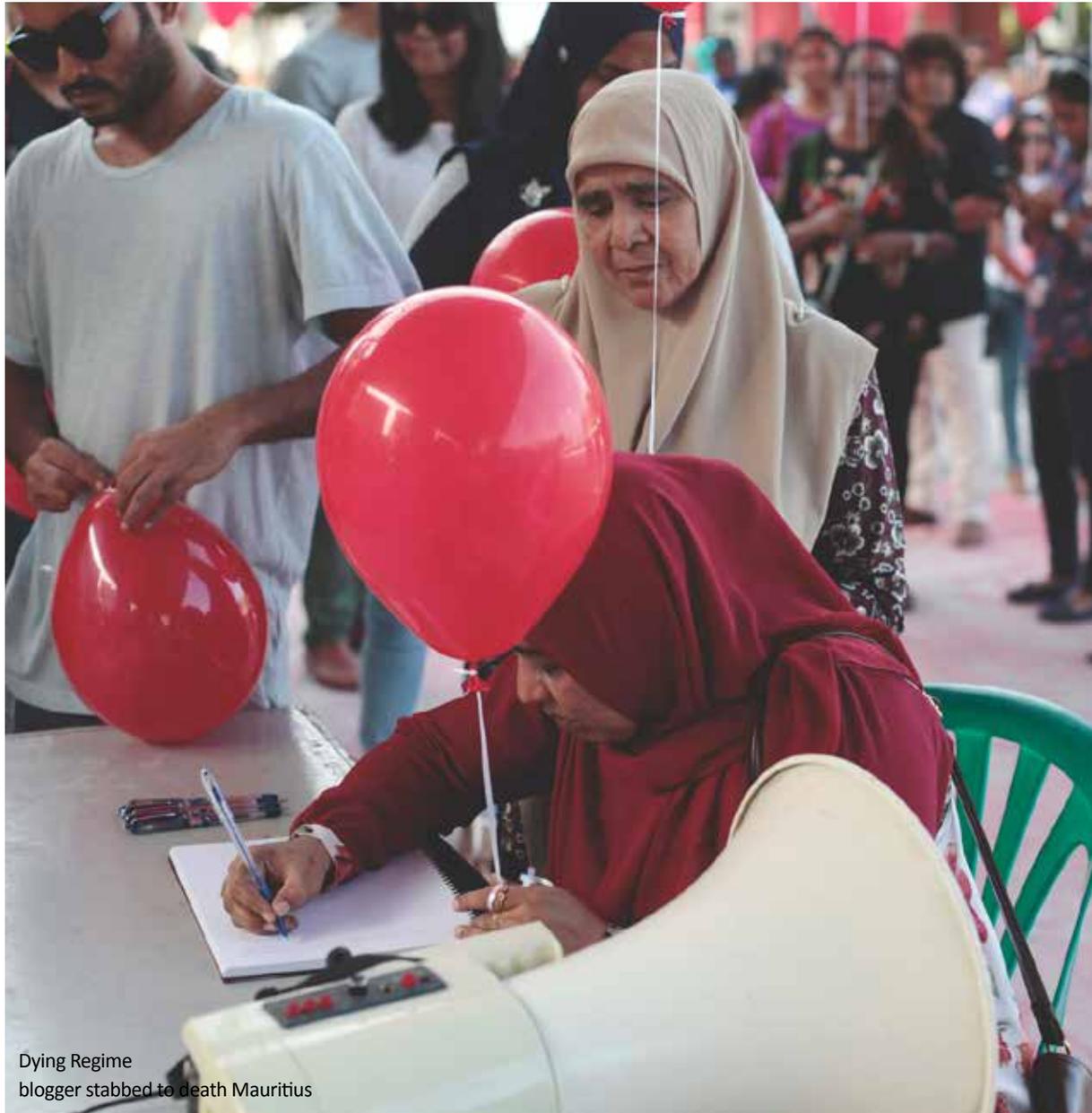
*The IBA suspended the broadcasting licenses of Muvi TV, Komboni and Itezhitezhi radio stations a few days after the August general election. They were accused of allegedly broadcasting statements that were a danger to national security. The three media outlets were never charged or given a chance to be heard, but were just served with suspension notices*

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<sup>3</sup> The 22 EENA countries were: Benin, Bolivia, Brazil, Burkina Faso, Cambodia, Cameroon, Colombia, Honduras, India, Jordan, Lebanon, Mexico, Mozambique, Nepal, Nigeria, Panama, the Philippines, South Africa, Tajikistan, Tunisia, Uganda and Zambia.

<sup>4</sup> This is an edited extract of an interview conducted in March 2017. The full interview is available at <http://bit.ly/2mV7Lvu>.

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*and switched off. Their premises were taken over by heavily armed police who denied workers any entry to the premises. The stations were then reinstated in an apparent diluted form weeks after the president was sworn into office. In the process, Komboni executive director Lesa Kasoma Nyirenda was assaulted by police as she tried to gain entry to her premises after being reinstated.*

The authorities also pursued a campaign to close down the Post newspaper, as [Lewis Mwape](#) of The Zambia Council for Social Development relates:<sup>5</sup>

*In June 2016, agents from the Zambia Revenue Authority pounced on the offices of the Post and closed the paper, saying that it owes taxes. The newspaper argued that most of its debt had been settled before the raid. While it may be true that the Post owes money, the timing and style of the action raised concerns. Ahead of the elections, this newspaper was a critical voice providing information to citizens to balance information they receive from state media.*

Dying Regime  
blogger stabbed to death Mauritius

*Failure to pay tax by any institution is unlawful. However, I get worried when government institutions are used to victimise those perceived to be opponents of the party in power. In many circumstances those that have accumulated huge tax arrears were once friends of the same governments and political parties that saw no problem in not paying tax, but they are now persecuted because their opinion has changed. Victimisation is not the answer. It is also worrying that there have been reports that the police teargassed employees of the newspaper in days that followed the closure, when they attempted to report for work.*

*The Post has been unsparingly critical of government and we have had public officials saying they will find a way to shut down this newspaper. This is one of these ways, in my opinion, of silencing this newspaper by using public institutions to clamp down on the media. It was sad to see the subsequent arrest of the newspaper's owner, his wife and the editor of the paper.*

The authorities subsequently began an attempt to [liquidate](#) the newspaper. Following the election, the state [arrested](#) prominent opposition leaders and [warned citizens](#) about their use of social media. It is because of actions such as this that a [2017 report](#) concluded there are grave systemic and legal challenges from the ruling party and state to the freedom of expression in Zambia.

Similarly, in [Bolivia](#), state interference in media ownership, as well as political vilification of journalists, are noted as worrying trends by AGNA member the National Union of Institutions for Social Action (UNITAS):

*There is a strong trend towards restricting critical voices and the debate of ideas. Before the administration of President Evo Morales, 80 per cent of the media was privately owned; today, officials and parastatals are increasingly replacing the creation of diverse and plural content. The overwhelming majority of the media are aligned with the government, replicate its line and reproduce presidential speeches. Among the actions that have led to the greatest violations of the freedom of expression is 'financial asphyxiation', denounced by some private media. Independent media do not receive official advertising, which undermines their sustainability and puts hundreds of jobs at risk.*

This power of states to penalise critical media and reward pliable media by deciding how it allocates its public advertising spend is seen in several other countries, including [Lesotho](#), [Slovenia](#) and [Suriname](#). The state is the greatest [single source of revenue](#) for media in African countries, and so its decisions on how to allocate its advertising spend can have major impacts, particularly in the many contexts where independent media are struggling financially.

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<sup>5</sup> This is an edited extract of an interview conducted in July 2016. The full interview is available at <http://bit.ly/2ldMnNS>.

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UNITAS also draws attention to the ways in which political figures seek to vilify independent media in Bolivia:

*The Bolivian government has deployed a powerful smear campaign against independent media. Prominent journalists such as Amalia Pando and Andrés Gómez were publicly labelled as ‘enemies of the change process’ after they reported on alleged acts of corruption in the high spheres of government. In May 2016, the Minister of the Presidency, Juan Ramón Quintana, was questioned by parliament. That session examined connections between the Minister and Gabriela Zapata, a former girlfriend of President Morales who is accused of influence trafficking and illicit enrichment. The Minister of the Presidency denied any such link and was allowed to use the stand to vilify the media that had covered the so-called ‘Zapata case’. The Minister repeatedly referred to the media as the ‘cartel of lies’, a label that was later increasingly used by other high public officials. This was condemned by the Organization of American States (OAS) Special Rapporteur for Freedom of Expression, Edison Lanza, during a visit to the country. As a result, President Morales stated in his official Twitter account that the Special Rapporteur was also a part of the ‘cartel of lies’ for defending the lying Bolivian media. Subsequently, on 14 December 2016, the Bolivian government launched a documentary film called ‘The Cartel of Lies’.*

As well as Bolivia, significant state vilification of the media is currently being seen in [Tanzania](#). President John Magufuli has [warned the media](#) that their freedom is [limited](#) and told critical newspapers that their [‘days are numbered’](#). Cybercrime law also gives the state broad powers and chills online expression. AGNA member Kepa Tanzania reports on these challenges:

*In August 2016 Tanzanian Information Minister Nape Nnauye ordered two privately-owned stations, Radio Five and Magic FM, to cease broadcasting immediately. The information minister alleged that Magic FM aired content that had the potential to cause a breakdown in law and order and Radio Five broadcast seditious content. The government also banned two newspapers, Mawio and the East African. The reason given was that Mawio’s articles had the potential to incite violence, while the East African was accused of having an agenda against Tanzania. The Minister singled out a cartoon in the East African that he said demonstrated disrespect to the person and office of the President.*

[Maxence Melo](#), the co-founder of Jamii Forums, a prominent social media platform that promotes the freedom of expression in Tanzania, was arrested by the police for reportedly declining to disclose the identities of contributors who allegedly posted sensitive information on the platform. Ten people in Tanzania were charged with insulting President John Magufuli in a WhatsApp message. They were charged under the tough new Cybercrime Act 2015. Some were fined up to seven million Tanzania Shillings (over US\$3,000). The Act was passed purposely to limit the freedom of expression, especially for social media users. Other acts that were enacted to limit access to information and the freedom of expression were the [Media Services Act 2016](#) and [Statistics Act 2015](#).

There is, however, a civil society fightback under way:

*CSOs filed a constitutional case against the Cybercrime Act 2015, issued press statements and provided legal support services to activists who were tortured, arrested and detained by police. They effectively used social media to put pressure on the government to stop violating basic human rights and the constitution.*

These issues are of course not limited to Tanzania. When it comes to new media, CSOs that took part in the EENA process broadly believe that the spread of the internet and social media has enhanced civil society's ability to share its points of view, but see that internet freedom is becoming more contested, and subject to new laws that are often not enabling. As well as challenges such as the blocking of websites and mobile phone reception, and restriction of internet content, in several countries there is concern about the recent introduction or proposal of laws that give states new powers over the internet, including in Cambodia, Jordan, the Philippines and Uganda. Under the [pretext](#) of combating cybercrime or improving internet security, states may take on excessive [surveillance](#) powers, [invade privacy](#) and criminalise online expression.

[Bahrain](#) remains a notorious jailer of those who use social media to express dissent: at the time of writing, [Nabeel Rajab](#) is one of many who remain in detention, with [multiple postponements](#) of his trial for posting tweets. He faces a potential [jail term](#) of up to 18 years and has been kept in [solitary confinement](#) even after undergoing surgery. In 2016, [16 people](#) were sentenced to a total of 26 years in prison on freedom of expression-related charges. Communications companies have also regularly [disrupted internet access](#) in the village of Diraz, where protests have been held.

The government of [Cameroon](#) launched a crackdown on social media, branding it a '[new form of terrorism](#)' after social media was used to call attention to the governance failures behind a catastrophic rail accident in October 2016. Further, the state's response to protests against the lack of voice of Cameroon's Anglophone regions was to [block internet](#) and social media access in the region from January until [April 2017](#), contributing further to the [exclusion](#) of Anglophone voices. The state [pressured](#) communications companies to cut connections and [threatened sanctions](#) against both domestic and international [media](#) if they reported on the Anglophone region conflict. Attacks on the freedom of expression went hand-in-hand with those on the freedom of assembly, with protesters attacked and killed and [protest leaders](#) detained and put on [military trial](#) on [terrorism charges](#). In April 2017, journalist [Ahmed Abba](#), who reported on terrorist group Boko Haram, was also [convicted](#) on terrorism-related charges and handed a ten-year sentence by a military court following a [flawed trial](#).

Civil society also found itself under online attack in [Kyrgyzstan](#), where a controversial constitutional reform referendum, held in December 2016, introduced a number of regressive changes that will impact on governance and human rights, and civil society rights as part of this. Ahead of the referendum, civil society experienced [mounting attacks](#) and surveillance, and these continued into 2017: in January 2017, independent journalist [Azimjon Askarov](#) had a life sentence

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upheld for reporting on ethnic violence, while in March 2017 several activists were [detained](#) for taking part in a protest on the freedom of expression. AGNA member the NGO Coalition for Democracy and Civil Society sets out the challenges:

*Changes to article 16 of the Constitution would remove human rights from the list of fundamental principles of the Kyrgyz Republic. Other significant changes include modification of the rules for the limitation period of crimes, unclear provisions on civil obligations, possible restriction of freedoms, deprivation of nationality, enhanced powers of the prime minister, controversial reform of the status of judges, and confusion between executive and judiciary powers.*

*Civil society made several attempts at calling for a broader debate on the question of modifying the Constitution, questioning the legality of the modifications, and trying to convince members of parliament to consider refraining from acknowledging this reform. CSOs raised awareness around the lack of voter education and lack of proper information for voters concerning the content of constitutional reform.*

*The contention concerning amendments to the Constitution has definitely worsened the position of CSOs, which have often been portrayed by the government as trouble-makers. The political field and space for civil society is being progressively narrowed for CSOs and media outlets. Hacking and other computer-based attacks have been constantly increasing in the last few years, and could be a means for further repression by government agencies. Other risks include an increased tendency toward the adoption of cyberspace-related policies, promoting online surveillance and jeopardising civil society activism and citizen freedom in general.*

In March 2017, the Kyrgyzstan prosecutor's office [announced](#) it would seek damages from two media outlets for allegedly publishing false information. This is only one example of a growing trend of the state accusing civil society of spreading false information and fake news. Part one of this review, on the new democratic crisis, highlighted the growing use of the term 'fake news'. Fake news, when it helps persuade citizens to support politics that attack human rights and internationalism, harms civil society. But in addition, the term is increasingly being used by states and politicians to undermine public trust in the media and enable attacks on activists and journalists. In [March 2017](#), for example, the government of [China](#) accused Jiang Tianyong, a prominent activist, of spreading fake news of the torture of [Xie Yang](#), a detained activist. This was the first time the Chinese state had adopted the 'fake news' terminology, and the aim clearly seemed to be to discredit Jiang Tianyong's reports. In a further indication of the threat to the media, the following day, a [BBC crew](#) was attacked and forced to sign a confession for attempting to record an interview with a citizen whose father was killed in a land dispute with the government. Several [South East Asian](#) states, including [Cambodia](#), are also attacking dissenting voices by labelling them as fake news and threatening to introduce new laws.

A [South African](#) minister also suggested, in March 2017, that greater social media regulation be introduced to combat fake news, bringing swift civil society [criticism](#). Meanwhile in repressive [Burundi](#), where the state has [ruthlessly restricted](#) civic space ever since [protests occurred in 2015](#) against President Pierre

Nkurunziza's decision to stand for a third term of office, reports of human rights abuses and humanitarian crises are now [dismissed](#) by the government as fake news and journalists described as '[enemies of the people](#)', sparking fears of a return to past genocidal practices fuelled by hate speech.

The [special rapporteurs](#) of key international human rights institutions have expressed concern about the potential for states to increase censorship under the pretext of preventing the circulation of fake news. [Lyndal Rowlands](#) of the Inter Press Agency sets out the challenge the fake news label presents to the freedom of expression:<sup>6</sup>

*Attacks on press freedom affect civil society and human rights defenders because it is the job of the media to hold the powerful to account. If the vital democratic role of a free press is endangered through accusations that they report fake news and should be censored, then who will be there to report when the government or others in positions of power attack people demonstrating in the street or imprison them?*

*Those who spread disinformation may also use it to discredit human rights defenders and CSOs. They may make up information about how many people attended a demonstration or argue that protestors are paid. Disagreements have begun to emerge over which protestors are violent, and whether they have been planted by the opposition, in order to discredit one side or the other. This may lead eventually to a curtailment of the right to protest, if peaceful protestors are successfully discredited.*

The key question here is that of [who decides](#) what is and is not classed as fake news, and whose interests that decision serves. More openness and transparency, which requires media freedom, is surely needed to combat fake news; if the response to fake news is to restrict the media, then it suggests that other motivations are in play.

As well as the state, non-state actors, including extremist and criminal groups and large corporations, can restrict the freedom of expression: the EENA research identifies high levels of violence against journalists in Brazil and Colombia, along with Mexico, where threats come from organised crime, and in Mozambique and the Philippines, where large corporations and their private security forces pose a threat. An AGNA member, the Mexican Center for Philanthropy, sets out the impact of organised crime and [impunity](#) on the freedom of expression in [Mexico](#):

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<sup>6</sup> This is an edited extract of an interview conducted in February 2017. The full interview is available at <http://bit.ly/2okM4IM>.

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NEWS

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*The freedom of expression has suffered as a result of the climate of insecurity and uncertainty affecting journalists in our country. According to the International Federation of Journalists, 11 reporters lost their lives in our country in 2016, which places Mexico in third place among the worst countries for journalists, after Iraq and Afghanistan. At the local level, self-defence groups remained heavily mobilised throughout 2016. These are groups of armed citizens seeking to protect themselves from the crime and impunity that surrounds them, derived from the appropriation of public space by criminal groups involved in drug trafficking.*

Impunity for attacks offers an ingrained challenge in many contexts. The [IPI](#) tries to present accurate numbers for the killing of journalists, but its figures are likely to be underestimates; it states that in many cases it was not possible to determine whether the killing of a journalist was directly work-related, because of the failure of states to carry out proper criminal investigations. In around a third of attacks on journalists recorded on the CIVICUS Monitor, no perpetrator was identified. Impunity was further highlighted by [UNESCO](#) in 2016, focusing on Africa: UNESCO found that only five of 131 murders of journalists on the continent between 2006 and 2015 led to court cases. The [CPJ Impunity Index](#) also underlines that there can be no quick fix for impunity: the same countries recur on the index year after year, with eight of the 13 countries listed on the index every year since it began in 2008.

Three current and worrying trends in the freedom of expression – the increase of restriction around elections, the use of criminal defamation laws and the contestation of online space – are examined in three country case studies below. That these are happening in very different states with varying levels of development and democracy indicates how widespread the freedom of expression challenge is.

## CASE STUDY ON RESTRICTION AROUND ELECTIONS: THE GAMBIA

Civil society in Africa and beyond held its breath as 2016 turned to 2017, and The Gambia's long-established autocrat President Yahya Jammeh threatened not to respect the results of the December 2016 election, in which challenger Adama Barrow triumphed. The election offered a breakthrough for the country, with citizens denying a sustained campaign of [pre-election intimidation](#) to make a decisive break with the past. Yet while President Jammeh initially claimed to accept the results, he quickly reversed his position, stated that the election had contained serious abnormalities, and made clear that he would not step down until the supreme court had considered his challenge of the results.

Ultimately, in January 2017, President Jammeh bowed to pressure to leave, heading into exile to signal the end of 22 years of rule. But in the seven-week interregnum between the results of the election being announced and President Jammeh finally agreeing to step aside, the state acted in a manner characteristic of countries run by leaders who try to deny electoral reality: it attempted to restrict the freedom of expression.

The state has long worked to suppress dissent in The Gambia. [Sohna Sallah](#), the Vice President of the Democratic Union of Gambian Activists, sets out the recent history of repression in the country:<sup>7</sup>

*The most pervasive human rights violations under the regime of former President Jammeh were firstly, the lack of an independent press, and the victimisation and even murder of journalists. At one time, the entire executive of the Gambia Press Union was based outside the country for fear of reprisals. This environment created an uninformed population who were oblivious to many of the atrocities and human rights violations that were occurring in the country. Secondly, arbitrary arrests, and the 72-hour detention clause in the Gambian Constitution, was the most abused of all rights in The Gambia. Many people spent months or years in jails across the country, some incommunicado with no access to lawyers, and many still remain unaccounted for. Finally, impunity was the mechanism that perpetuated the lack of the rule of law and the repression in the country. The Jammeh regime presided over one of the most closed societies in the world. Accountability and requests for information were simply dismissed by the regime.*

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<sup>7</sup>This is an edited extract of an interview conducted in February 2017. The full interview is available at <http://bit.ly/2l75aNn>.

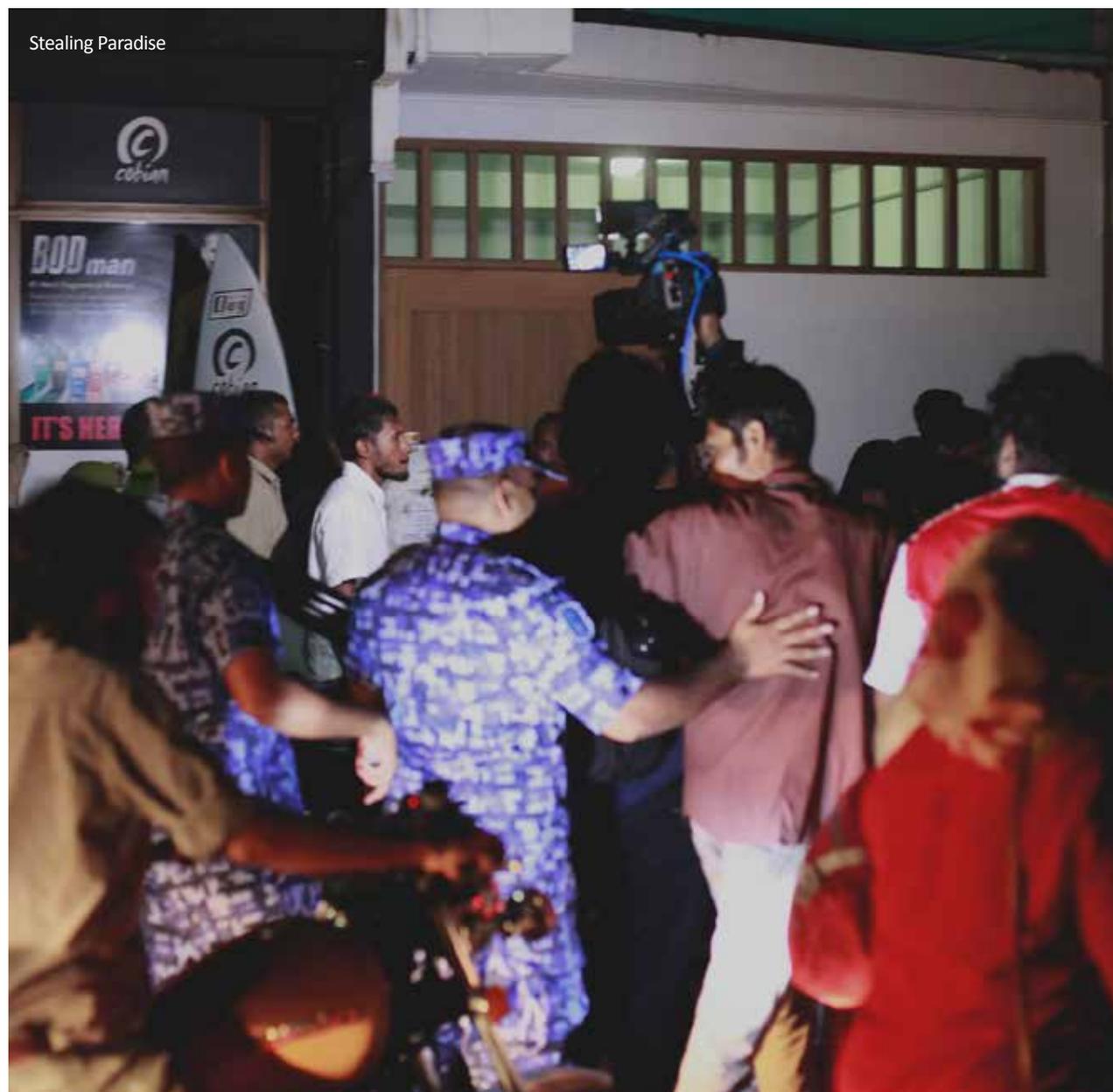
[Ahead of the election](#), the internet was shut down and international phone calls blocked. After the election, the state used its ownership of key media, in a country with limited internet penetration and few alternative news sources, to its advantage. Election winner Adama Barrow found his efforts to speak to the nation thwarted: the country's single, state-owned TV station [refused to broadcast](#) a speech he made in the week following the election.

The Gambia's private media also faced increased restrictions. In early January 2017, the National Intelligence Agency ordered [three radio stations](#) to stop broadcasting, and the following week, security agents stormed a further radio station, Paradise FM, which had broadcast an interview with an opposition leader. [All four](#) were subsequently informed that their broadcast licences had been revoked, without being offered any justification. Such was the level of state sensitivity to the expression of dissent that citizens were detained even for wearing [t-shirts](#) bearing the slogan 'Gambia Has Decided'.

As international pressure was exerted on President Jammeh to accept the result of the election, international media also found itself targeted. Two [Al Jazeera journalists](#) were detained and deported in January 2017; the network had earned the regime's disfavour by broadcasting images of street protests. More foreign journalists were [deported](#) later in the month as President Jammeh leaned on the National Assembly to introduce a state of emergency and Adama Barrow prepared to be sworn in as the new president, something that eventually happened at the Gambian embassy in neighbouring Senegal. Seven international journalists were also [denied entry](#) to The Gambia to report on the planned inauguration. The intention seemed clear: to make it harder for an international audience to obtain accurate and unbiased information on the situation.

THE INTENTION SEEMED CLEAR: TO MAKE IT HARDER FOR AN INTERNATIONAL AUDIENCE TO OBTAIN ACCURATE AND UNBIASED INFORMATION ON THE SITUATION

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Thankfully, these tactics proved futile. Organised and sustained international pressure combined with a [brave show of defiance](#) from a diverse range of Gambian civil society to force Jammeh to stand aside. Crucially, the leaders of neighbouring states were part of the pressure, and helped arrange a path for Jammeh to head into exile, while the key regional institution, the Economic Community of West African States ([ECOWAS](#)) took an unusually firm line, committing troops who were ready to move in from Senegal to enforce the electoral verdict if necessary.

This pressure chipped away at Jammeh's support. It meant that The Gambia experienced a peaceful transition of power for the first time since independence, although even then, the story was not without a nasty sting in the tail, as reports quickly came through of the [vast wealth](#) that Jammeh had spirited away to his new home in [autocratic Equatorial Guinea](#), leaving the country [mired in debt](#). Concern also grew about what kind of deal Jammeh may have been offered to stand aside. Nonetheless, the international pressure was decisive and overcame the state's attempt to ignore its citizens and suppress dissent. It should be

seen as having established a precedent that must be followed the next time an autocratic leader refuses to accept the will of the people in West Africa. It also indicates that regional bodies should be a key target for civil society advocacy in such contexts.

Civil society within and outside The Gambia will now watch President Barrow closely as he settles into office for signs of a decisive break with the past, and civil society will try to work with him. President Barrow has promised that the country will end its international isolation, including by rejoining the Commonwealth and remaining in the International Criminal Court, which his predecessor had committed to leave. He has also said that there will be a [truth and reconciliation commission](#) to investigate past cases of abuse.

Sohna Sallah sets out the potential that could be realised in a free Gambia:

*The opening of democratic space in The Gambia will create opportunities for citizens to become more informed and involved in a true participatory democracy. Journalists can operate freely without hindrance and citizens will have unfettered access to information. There will be a stronger and more permanent civil society footprint in the country that will serve as both partner and watchdog to the new administration. Business opportunities will grow for thousands of Gambians as former President Jammeh had monopolised much of the business in The Gambia, even putting small-time vendors out of business. Finally, The Gambia will be welcomed back to the family of nations around the world where democratic norms and procedures are respected.*

*Gambian civil society and activists and journalists can continue to highlight issues that plague The Gambia. We must be realistic that even though the future is bright for the tiny nation, the removal of former President Jammeh is not a magic bullet that will rid the country of all its problems. This is going to be a long road and the country needs all hands on deck to ensure that it continues on the trajectory of a sustainable democracy and prosperity.*

Progress can only be achieved on these fronts by opening the country up to free and independent media coverage, by both domestic and international media, and enabling people to express their views and articulate their demands. President Barrow has acknowledged the role of social media in his election victory and promised to uphold the freedom of expression. At the time of writing, state media are being [overhauled](#), exiled journalists are returning, new radio and TV stations have applied for licences and Taranga FM, one of the stations closed down in January 2017, has reopened and is expanding. These are promising new beginnings, but continuing challenges were indicated in April 2017 when a journalist was [assaulted](#) by President Barrow supporters for asking a question during a press conference. Commitments to the freedom of expression need now to be backed by actions that challenge impunity and protect people who exercise their rights, and [legislative changes](#) to repeal restrictive laws. Increased respect for the freedom of expression will be a key indicator of The Gambia's democratic progress.

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## CASE STUDY ON CRIMINAL DEFAMATION TO DETER DISSENT: THE MALDIVES

A 2016 Al Jazeera documentary, '[Stealing Paradise](#)', shed light on the intricate webs of corruption that enrich the ruling elite of the [Maldives](#). Their investigation alleged that President Abdulla Yameen and his circle received huge bribes for laundering money through the country's central bank, and have also profited by selling state assets for personal gain. A [corrupt judiciary](#) closely connected to the ruling elite was reported to be a key enabler of corruption. Prominent critics of President Yameen, including deposed former President [Mohamed Nasheed](#), have received long jail sentences on [terrorism charges](#) in an attempt to silence dissent. It was also alleged that [arson attacks](#) had been carried out by the state against a TV station and the Auditor General's Office to hinder the investigation of corruption allegations.

While it denied the findings of the investigation, the state was keen to ensure that citizens of the Maldives would not be given a chance to judge for themselves. It gave itself new scope to penalise dissent, by passing a [criminal defamation law](#) in August 2016. In many countries, the challenge is that outdated and inappropriate criminal defamation laws have not been repealed; given that defamation was decriminalised in the Maldives in 2009, to introduce a new criminal defamation law was a truly retrograde step. The law, which was quickly passed as corruption allegations spread, contains vague and broad language, and criminalises expression that is deemed to contradict social norms, threaten national security or comment on the tenets of Islam. It directly contradicts the Maldives' constitution as well as international law. The law applies to criticisms made on social and traditional media. Punishments can include the withdrawal of licences from websites and publications, and the imposition of heavy fines and jail terms.

The new law was denounced by civil society, which [held protests](#), including one in April 2016 at which [18 journalists](#) were arrested. It was also condemned by the [UN special rapporteur](#), David Kaye. Unusually, the governments of Germany, the Netherlands, Norway, UK, USA and the European Union (EU) also issued a [joint statement](#) criticising the move.

Once the law was passed, independent TV and radio station DhiTV announced that it was [closing down](#), stating that it did not believe it could run sustainably under the current conditions. It was not the first independent voice to fall silent in the Maldives in 2016: in April 2016, a controversial court ruling caused the [Haveeru newspaper](#) to be shut down and access to the AdduLive regional news website [was blocked](#). In June 2016, [Channel News Maldives](#), a popular website, closed down following pressure from the government after it exposed the misuse of state resources by the president's wife, and in July 2016 an [opposition activist](#) was arrested for posting on Twitter about heavy-handed policing of opposition meetings; he was [released](#) in September 2016 subject to a number of conditions. [Raajje TV](#), the only channel to broadcast opposition voices, was hit by two fines, in March and April 2017, under the new defamation law, with the second being levied for transmitting an opposition speech. The station has also been subjected to [judicial harassment](#). The freedom of expression in the Maldives received a further blow in April 2017 when prominent blogger [Yameen Rashad](#) was killed after receiving numerous [death threats](#).

The defamation law is just one of many measures recently introduced to restrict rights. [Thilmeeza Hussain](#), former Deputy Permanent Representative of Maldives to the UN and a climate change and human rights activist, sets out some of the other recent regressive changes:<sup>8</sup>

*New amendments to the Freedom of Assembly Act state that protests, marches, parades and other such gatherings can only take place with prior written permission from the police and only in designated areas. The challenge is that we all know that permission will not be granted for peaceful demonstrations that focus on issues considered sensitive by the government. The law will be used to pre-empt public assemblies and prevent them from taking place. The Act is at variance with Article 32 of the Constitution, which guarantees the right to assemble without prior notification.*

*Other restrictions on human rights are imposed by the police, who use administrative decisions to restrict and prevent rallies by the political opposition. The judiciary is compromised and the right to a fair trial is not respected. Independent institutions are defunct. In general, the government has systematically restricted civil and political rights through administrative decisions and through the passage of undemocratic and unconstitutional legislation.*

The state was quick to flex its muscles in response to the Al Jazeera documentary. It [threatened](#) to use the law against anyone involved in ‘Stealing Paradise’ and verbally attacked the programme makers on state media. The documentary’s producer received death threats, and Al Jazeera withdrew several of its journalists from the Maldives. While the state could not prevent the broadcast of ‘Stealing Paradise’ in September 2016, its reaction was instant. It [cancelled the passport](#) of former President Nasheed, now in exile in the UK, and other opposition leaders, [detained and questioned](#) two people accused of passing information to the media and [raided](#) CSO and newspaper offices. Thilmeeza Hussain relates the reaction and the reasons behind it:

*Following the broadcast of ‘Stealing Paradise’ on 7 September 2016, the Maldivian authorities embarked on a new wave of intimidation and harassment of civil society. Soon after the documentary was broadcast police raided a building in the capital, Malé, that houses the Maldives Democracy Network (MDN), a human rights organisation, and the Maldives Independent, an English language media outlet. The police’s search warrant stated that these institutions were attempting to create discord and unrest in Malé and instigate hatred between the public and state institutions.*

*I would say that the intent of the government and the reason behind the raids was to intimidate citizens and force them to desist from speaking out against ongoing corrupt practices. Particularly now that ‘Stealing Paradise’ has exposed the*

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<sup>8</sup> This is an edited extract of an interview conducted in September 2016. The full interview is available at <http://bit.ly/2lk61YF>.

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*high levels of corruption internationally we are likely to see further restrictions placed on the freedom of expression and assembly and on fundamental rights in general. State agents will also continue to target civil society and citizens who speak out, buoyed by high levels of impunity, as they are not held accountable for their actions.*

*The recent promulgation of the restrictive defamation law and the raids on MDN and the Maldives Independent will have a chilling effect on those who advocate for human rights and fundamental freedoms. Some journalists who were interviewed for the documentary have fled the country to avoid reprisals from the government. Private television channels and media outlets have resorted to self-censorship and all live programmes are delayed before broadcast to enable private media outlets to edit them. We have seen instances where people have been arrested and placed under remand simply for tweeting. In general, media personnel work in an environment of fear and intimidation.*

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The state has continued to show that it is fearful of international exposure of its lack of accountability and poor governance: its response to scrutiny of its governance and human rights records by the Commonwealth was to [quit the international institution](#) in October 2016. The state must continue to be exposed internationally, both for its poor governance record, including the corruption allegations, and for its regressive actions towards civil society rights, as exemplified by the return of the criminalisation of defamation. Thilmeeza Hussain sets out the key areas where progress is needed:

*For democracy to function effectively, there has to be a separation of powers. The judiciary must be able to function independently without any influence from senior government officials. In addition, both the judiciary and independent state institutions need to be reformed. Most importantly, the rule of law must be upheld.*

## CASE STUDY ON THE CRACKDOWN ON ONLINE CIVIC SPACE: VIET NAM

With an internet penetration of 52 per cent - around the same level as China – Viet Nam is ranked as having the 13<sup>th</sup> highest population of internet users in the world. [Over 49 million](#) Vietnamese citizens are online. [Another study](#) suggests that 75 per cent of Vietnamese citizens have access to the internet or a smartphone, and 86 per cent of people between the ages of 18 and 34 use social networks. The spread of new technologies should open up fresh space for the expression of dissent, and create new opportunities for civil society, activists and citizen journalists. However, as in China, Viet Nam's one-party government has moved vigorously to suppress online civic space.

[Penelope Faulkner](#), Vice-President of the Viet Nam Committee on Human Rights (VCHR), an international network based in France, sets out how the spread of the internet and social media once seemed to promise new possibilities in Viet Nam:<sup>9</sup>

*What we call ‘independent civil society’ is a very recent phenomenon in Viet Nam, and it is still at an embryonic stage. It emerged most visibly with the fast internet penetration in Viet Nam and especially the development of the blog. Blogging provided young people with the means to engage in debates and discussions that were impossible in official media, and the blogs triggered the emergence of networks and solidarity groups on issues such as press freedom, women’s rights, workers’ rights, environmental issues, sexual equality and land ownership.*

However, such relative freedom has quickly brought backlash. Viet Nam’s civic space is rated as [entirely closed](#) on the CIVICUS Monitor, with the ruling Communist Party playing a dominant role in economic, social and political life. The state creates formidable barriers against the formation and functioning of CSOs, and targets those who attempt to organise or attend meetings or speak out on critical issues.

The state also fiercely restricts the freedom of expression; private media are banned, and the law compels all media to serve as a mouthpiece of the ruling party, with topics relating to human rights and activism prohibited. CPJ’s annual survey of [detained journalists](#) reported that as of December 2016, eight journalists were in prison in Viet Nam, placing it sixth overall in the world for the jailing of journalists. All eight are bloggers, jailed for such offences as reducing public trust in the Communist Party, going against the national interest and spreading anti-state propaganda. The state has extended its tight grip to the digital sphere.

2016 and 2017 saw numerous actions against [bloggers](#). [Nguyen Ngoc Nhu Quynh](#) was arrested in October 2016, [Ho Van Hai](#) in November 2016 and [Nguyen Danh Dun](#) in December 2016. Ms Quynh had published a report outlining 31 cases of death in police custody and blogged about [environmental pollution](#); she was arrested when trying to visit another imprisoned activist. Meanwhile in January 2017, journalist and religious activist [Dang Xuan Dieu](#) was forced into exile as the price for his early release from prison, after serving five years of a 13-year sentence, during which he was frequently abused. A videographer, Nguyen Van Hoa, and a blogger, Tran Thi Nga, were [reported detained](#) in January 2017, and [two more bloggers](#), Phan Kim Khanh and Bui Hieu Vo, were detained on charges of ‘propagandising against the state’ in March 2017.

The state further showed its paranoia towards any media criticism by [removing the editor](#) of state-owned news website Petro Times from his position in October 2016 and ordering the site’s suspension for three months after it covered allegations of

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<sup>9</sup> This is an edited extract of an interview conducted in April 2016. The full interview is available at <http://bit.ly/2lJyLRa>.

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corruption in a state-owned oil and gas company. Earlier, in May 2016, state authorities ordered a BBC team to [cease reporting](#) on a visit to Viet Nam by then-US President Obama, accusing the team of meeting a prominent dissident. The state has also [called on](#) companies that do business in Viet Nam not to advertise on key social media channels, on the basis that they do not comply sufficiently with their requests to prevent the sharing of dissenting content. It is significant as well that when security forces detained and beat a group of around 30 activists who were trying to attend a civil society workshop in October 2016, they targeted the destruction of the [activists' phones](#). Similarly, when activists were detained after gathering to commemorate those killed in China's 1979 invasion of Viet Nam, a sensitive issue for the regime, given its cultivation of a close relationship with China, many complained that their [phones were confiscated](#) and all data wiped.

The result is that Viet Nam is now a dangerous place to be a blogger, as Penelope Faulkner relates:

*Civil society activists in Viet Nam are extremely brave and determined. Not only do they face arrest and imprisonment, but they are frequently beaten and assaulted by plain-clothed security agents, threatened and harassed. Indeed, activists know that by speaking out for human rights, they are not only sacrificing their own safety, but also that of their families and friends.*

Further, any hopes that laws on freedom of expression would be reformed in 2016 were dashed:

*The National Assembly adopted two laws related to the freedom of expression in March 2016, including an amended Press Law. As there is currently no free press in Viet Nam, it was hoped that the amendments would open the way for privately-run media. However, this was evidently wishful thinking. Not only does all media remain under Communist Party control, but restrictions have increased, with the number of banned subjects for journalists leaping from four to 13 under the amendments. A new Law on Access to the Media, also adopted in March, says more about what information the public cannot access than what it can. The government may block access to any information deemed to infringe provisions, including on vague notions of 'state interests' and 'social order and ethics'. The 'right to know' in Vietnam is simply the right to know what the government wants to tell you; it's not a move towards transparency.*

Restrictions on the freedom of expression are accompanied by other measures to suppress civil society. A proposed [new law on associations](#) under discussion at the time of writing would significantly worsen already difficult conditions for CSOs. The [proposed law](#) would require CSOs to obtain state permission to form, operate and receive international funding, in effect giving the state veto power over CSOs. CSOs have [mobilised](#) as best as they can to [object](#) to the draft law, but the state has little history of listening to civil society voices.

Penelope Faulkner locates the current crackdown on the freedom of expression within a trend in which the state, enjoying greater international prominence, as reflected in the free trade deal it agreed with the EU in 2015, is passing new laws under the guise of governance reform. These strengthen its external appearance of respectability but simultaneously consolidate elite power:

*The new frenzy of law-making is indicative of a disturbing trend. Viet Nam has kept its political system closed because it sees pluralism as a threat to the regime's survival. In particular, the ruling elite, whom the people call 'red capitalists', fear losing the massive privileges they currently enjoy.*

*As Viet Nam seeks to play a greater role on the global stage, it is under increasing pressure from the international community to improve its human rights record. In the past, the authorities maintained order through widespread police crackdowns and high-profile political trials. But Viet Nam knows this is bad publicity, so they have found a more subtle strategy – that of using the law to stifle dissent. Chinese dissidents call it the 'rule by law', rather than the rule of law. Funded generously by the international community, Viet Nam has embarked on programmes of 'legal and judicial system reform' and passed more laws and regulations than ever before. Yet almost all these new laws contain vaguely-worded and restrictive provisions that virtually give the state carte blanche to arrest and imprison activists.*

*The Communist Party's XII Congress in January 2016 brought a new, hard-line leadership to power. In March 2016, in the space of just two weeks, seven human rights activists were sentenced to a total of 22 years in prison simply for exercising their legitimate rights to the freedoms of expression and assembly. We fear that this crackdown will continue, and human rights defenders, journalists and critics will be exposed to increasing hardships in the free exercise of their rights.*

*Internationally, there are many challenges. Firstly, 41 years after the Viet Nam War, Viet Nam still enjoys a privileged place in public opinion. Things that are condemned in China or Cuba are often forgiven in Viet Nam. Secondly, because Viet Nam is a growing economy, business interests often dominate human rights. The European Commission, for example, fast-tracked the EU-Viet Nam Free Trade Agreement (FTA), waiving a mandatory Human Rights Impact Assessment to finalise negotiations. Our Committee and the International Federation for Human Rights filed a joint protest to the EU Ombudsman, who found the Commission guilty of 'maladministration'. Despite this, the FTA is going through, with little more than lip service to Viet Nam's serious human rights concerns. We agree that trade relations can enhance people's lives, but there is an inconsistency in the policies of many democratic countries on human rights.*

What this tells us is that the Vietnamese state is happy for the movement of money and goods to be free, but not the international flow of ideas about governance, accountability and participation, or indeed of support to civil society. But ultimately, part of the response needed is to look to the international sphere; if the state is repressing dissent in order to develop international respectability, then the international arena becomes a legitimate forum in which the

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government may be held to account. Accordingly, in December 2016, a coalition of [21 civil society groups](#) called on Viet Nam as a member of the UN Human Rights Council to respect human rights. It is also important to find channels for civil society discourse to continue, including those that find ways of crossing borders. As Penny Faulkner concludes:

*We can say and do things that activists in Viet Nam could not say or do without ending up in prison. But also, in our Vietnamese-language articles and radio broadcasts, we pursue a longer-term aim of trying to stimulate a culture of human rights and democracy in Viet Nam. Young people in Viet Nam have never had the opportunity to exchange and debate new ideas, and the diaspora tends to equate democracy with anti-communism. If people don't learn to respect each other and value their diversity of views, the post-Communist era could be as repressive as the current one.*

MEDIA FREEDOM  
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## LOOKING FORWARD: DEFENDING THE FREEDOM OF EXPRESSION

Media freedom and civil society freedom are inextricably linked; where one is weakened, so is the other. If dissent is to be accepted as an essential part of participatory democracy, then the essential civil society freedoms – of association and peaceful assembly, as well as expression – must be respected. The world today is far from this ideal. It is clear that the freedom of expression is being strongly contested in many contexts, including as part of a renewed assault on dissent driven by the determination of populist leaders to shape and control dominant narratives. For the propagation of regressive narratives via the dissemination of fake news and the spreading of hate on social media to succeed, it is necessary to suppress independent scrutiny and a diversity of voices.

The visible impacts set out above can only be the tip of the iceberg; it is impossible to quantify the chilling effect by which restrictions on the freedom of expression deter dissent and encourage self-censorship, something that a recent [Council of Europe report](#) suggests is a widespread problem. But while the examples given above can seem gloomy, there are also instances of successful civil society responses that have upheld the freedom of expression.

In May 2016, after extensive civil society advocacy, [Nigeria's Social Media Bill](#), which would have imposed harsh penalties for social media posts deemed offensive, was withdrawn. Also in May 2016, a new independent news service was launched in [Hong Kong](#), on the basis of crowdfunding, in response to the lack of independent and trustworthy journalism. The following month, a Burkina Faso journalist, [Lohé Issa Konaté](#), won a case at the African Court for Human and Peoples' Rights which included an instruction for the state to pay compensation for a criminal defamation conviction and detention following the publication of an article exposing judicial corruption. In August 2016, [Tunisia](#) became the second state, after Palestine, to sign the Declaration on



Media Freedom in the Arab World, giving civil society a new opportunity to hold the state to account on the freedom of expression. Meanwhile in El Salvador in October 2016, a step towards challenging impunity was taken when four criminal gang members were sentenced to 20 years in jail for the murder of [Nicolás Humberto García](#), an indigenous community radio journalist. Finally, in November 2016, the [government of Paraguay](#) and UNESCO signed an agreement to establish a permanent safety mechanism to protect journalists. These are all examples in which civil society played a significant part, or that open up new possibilities for civil society.

As the earlier discussion suggests, while the online arena offers opportunities to civil society that are not available in traditional

media, civil society faith in online space is tested by rising contestation and restriction. In response, civil society needs to work to make the protection of online freedom a mainstream issue for the civil society sphere as a whole, regardless of the thematic focus of different parts of civil society. There is a need for civil society, and civil society's supporters, to step up their understanding of and investment in [online protection](#) and [digital security](#) tools for civil society activists and journalists, so that new media can be used safely and anonymously and their use does not expose users to threat. There are many schemes here that could be more strongly supported and given greater reach. Further, stronger standards for the freedom of expression in a digital age are needed, such as the [Global Principles](#) on Protection of Freedom of Expression and Privacy published by Article 19 in March 2017. The passing of a UN Human Rights Council [resolution](#) in March 2017, affirming that state surveillance practices that are not necessary or proportionate contravene the right to privacy, offers a further opportunity to hold states to account for excessive surveillance.

Protection and self-defence strategies also need to be constantly updated; at the moment, for example, civil society and the media may need to strengthen their ability to respond to charges from political power-holders that they offer fake news. Civil society and the media may need to bolster their capacity to

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check and prove facts and data, and rebut accusations levelled. There is also a need for an urgent debate about how the term ‘fake news’ is defined and deployed, and who gets to determine it; states cannot be the sole arbiters here. Civil society needs to work to expose the fake news peddled by powerful interests, but it also needs to be very careful about whether and how it uses the term ‘fake news’; the term rarely helps advance a debate.

A further response needed is that of greater civil society engagement with legal systems, to sensitise and encourage more progressive interpretations of laws such as those on defamation, and work with security forces to challenge impunity and improve [protection mechanisms](#). When it comes to challenging impunity, the first step is to count: to place on record and provide information about those who are attacked, detained or killed, and the circumstances behind those abuses. For example, in the [Philippines](#), where the level of threat to journalists is high, the Centre for Media Freedom maintains a [detailed database](#) of the killings of media practitioners, and distinguishes between work-related deaths and those that are not work-related. More such initiatives are needed.

There is a need to push the question of media ownership higher up the political agenda. The challenge goes beyond that of public media being subject to excessive state interference and the promotion of pro-state voices. In several contexts, notably in Latin America, oligarchic media ownership concentrated into a handful of well-connected elite members works against a diversity of expression and hampers civil society from getting its views across. Online platforms are also increasingly subject to the same concentrations of ownership. The debate about who owns what is therefore an increasingly important one. Civil society’s response should be two-fold: to develop its own spaces for diverse expression, and support those that exist; and to foster awareness among citizens of the political and economic filters through which the information they consume passes.

Connections between civil society and the media are still lacking in many contexts, and can be hampered by mutual misunderstanding. A diverse array of new connections needs to be fostered between civil society and networks of independent journalists. The 2016 leak of the [Panama Papers](#), an undertaking too large for any one media concern, showed the power that can be unlocked and value achieved by cooperation that puts individual interests aside. There is also a need for civil society to engage actively with the media and build connections to encourage an improved understanding of civic space issues among media practitioners. The [Guide to Reporting Civic Space](#) Media Toolkit, launched by CIVICUS in March 2017, is one example of an initiative to encourage this understanding. Many more are needed.

In short, the fightback against the current regressive politics and the defence of human rights can only be achieved if stronger connections are made between civil society and independent media. We are being attacked together, and we must fight back together.