

## Attacks against Anti-Corruption Human Rights Defenders in Asia

### Background

From 1 January 2020 to 30 June 2021, the Asian Forum for Human Rights and Development (FORUM-ASIA) recorded 1,072 cases of violations against defenders in Asia.<sup>1</sup> This trend emphasizes the worrying situation defenders have endured over the past years. Judicial harassment, intimidation, threats, as well as physical violence remain common, with perpetrators benefiting from the prevailing culture of impunity. FORUM-ASIA noted that state actors are the dominant perpetrator in harassing defenders.

The decline of democracy and rise of authoritarianism contribute to the increasing harassment against those defending human rights. The lack of democratic space<sup>2</sup> provides state and non-state actors the space and the opportunity to abuse their power. Corporations also often collude with state actors to intimidate and harass defenders.

Corruption is one of the core factors that contributes to the continuous harassment of defenders, and perpetuation of impunity in the region. It weakens the judicial system crucial for ensuring the protection of human rights and hinders access to justice. According to the Global Corruption Perception Index 2020,<sup>3</sup> most Asian countries have a score of less than 50 (out of 100). Whistleblowers, who have an important role in challenging corruption practices, are often silenced, and laws protecting them are lacking in most Asian countries.<sup>4</sup>

To further exacerbate the situation, Covid-19 pandemic has created further challenges. On one hand, Covid-19 has been used as an excuse to enact repressive laws and policies, which work to further silence defenders calling out government mismanagement of the pandemic. On the other hand, Covid-19 relief funds have been subject to mismanagement and those calling for transparency on the use of these relief funds become targeted, as will be illustrated below.

### Harassment against anti-corruption defenders

Defenders working on corruption issues are targeted due to their work in exposing corruption practices and calling for accountability. Out of the 1,072 cases recorded by FORUM-ASIA from January 2020 to June 2021, at least 54 cases are related to defenders working on anti-corruption issues, affecting 61 individuals, including their family members. Vietnam topped the list with 22 cases recorded, followed by India (8 cases), and China 6 (cases). Looking at the

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<sup>1</sup> <https://asianhrds.forum-asia.org/>

<sup>2</sup> Most countries in Asia are considered as repressed, obstructed, or even closed, according to the monitoring done by CIVICUS (<https://monitor.civicus.org/>)

<sup>3</sup> <https://www.transparency.org/en/cpi/2020/index/mmr#>

<sup>4</sup> <https://www.whistleblowers.org/whistleblower-laws-around-the-world/>

cases with a sub-regional approach, 30 cases took place in Southeast Asia, while 14 in South Asia.<sup>5</sup>

Judicial harassment<sup>6</sup> was the most common type of harassment against anti-corruption defenders, with 40 cases recorded, meaning that in 74% of the cases, the defenders were prosecuted with fabricated charges or imprisoned in response to their human rights work. Aside from judicial harassment, the use of physical violence were recorded in nine cases and there were three defenders killed as a result, during the period—two in India, and one in the Philippines. The two countries have consistently been recorded as having among the highest rates of physical harassment and killings of defenders in Asia. In India, Right to Information (RTI) defenders have been systematically targeted for exposing wrongdoings by the state actors; while the Philippines is considered as one of the most dangerous in Asia for defenders overall to operate in, due to high number of killings. FORUM-ASIA recorded 18 cases of killings in Philippines in the period under review.<sup>7</sup>

When it comes to the most affected groups, among those working on anti-corruption, media workers - including journalists and media outlets, were the most affected with 29 cases of violations recorded. This amounts to more than half of the recorded violations against anti-corruption defenders. In majority of these cases, they were harassed for investigating, reporting, or commenting on corruption cases or misuse of public funds. Bloggers and social media activists followed with 12 cases, and women human rights defenders (WHRDs) with 11 cases.<sup>8</sup> FORUM-ASIA also noted that the family members of affected defenders are often impacted. In Bangladesh, in July 2020, a journalist reporting on local corruption and his family members were severely injured after being attacked with a machete.<sup>9</sup>

## Emblematic cases of anti-corruption defenders

### Indonesia

In Indonesia, Mr. Novel Baswedan, former senior investigator of the Corruption Eradication Commission (KPK - *Komisi Pemberantasan Korupsi*), an independent government institution established to combat corruption in the country, has continuously been harassed due to his role in exposing high-level corruption cases involving key government officials, including parliament members and ministers. In the early morning of 11 April 2017, when he was walking home after doing his prayer in a nearby Mosque, a motorbike came behind him, and when he turned to look at its direction, the motorbike passenger threw acid water to his face. This caused him to instantly burn and suffer from extreme pain. After this incident, his eyes have not been able to function properly, and he eventually lost his sight on his left eye. There

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<sup>5</sup>It is important to note that the number presented in this report may not represent all violations taking place against anti-corruption defenders, as many cases may go underreported, especially those occur at local level that do not receive much media attention.

<sup>6</sup> Judicial harassment is defined as the use of laws, regulations, and other legal tools against individuals or entities with the aim of delegitimising, criminalising, and silencing its target.

<sup>7</sup> <https://shorturl.at/puA89>

<sup>8</sup> Please note that for the purpose of this analysis, one case can consist of multiple types of harassment and one affected defender can fit into multiple categories of defenders.

<sup>9</sup> <https://www.newagebd.net/article/110288/cumilla-journalist-hacked-for-uncovering-corruption>

were five high-level corruption cases that he was working on when the attack took place, hence a strong case can be made that the attack against him was due to his work.

Two perpetrators were arrested in December 2019 for this attack - both were active police officers and sentenced to 1.5 years in prison. While the prosecutor only demanded one year of imprisonment. Both perpetrators shared that they committed the attack as they were annoyed with Novel's behaviour and wanted to give him a 'lesson'. The perpetrators also said that they conducted the crime based on their own initiative, without receiving orders from anyone. To date, the mastermind behind the attack is still not known.

In between the attack and the arrest of the two perpetrators, Mr. Baswedan was reported to police five times by different actors for defamation, spreading fake news, and other fabricated charges.<sup>10</sup> Considering the threats he faced, Mr. Baswedan and his lawyer team previously met with Mr. Michel Forst, the former United Nations (UN) Special Rapporteur on the situation of HRDs, when he conducted an academic visit to Indonesia in 2018.

More recently, in 2020, the Law No. 7 of 2020 amended the Corruption Eradication Commission Law and forced all its staff to have a civil servant status.<sup>11</sup> Between 18 March and 9 April 2021, all staff of the Commission underwent a national insight test. On 7 May 2021, Mr. Baswedan and 74 other staff members were informed they did not pass the test.<sup>12</sup> Some were able to retake the test, but on 30 September, 57 of them, including Mr. Baswedan were officially terminated by KPK.<sup>13</sup> There is a strong concern that the termination was set up because the 57 were handling high-profile cases. Some questions posed during the test were also odd, such as "are Chinese all the same" or "do you want to remove your hijab or not".<sup>14</sup>

The case of Mr. Baswedan shows that anti-corruption defenders, including those working within state institutions, are subject to systematic harassment, for holding, exposing, and calling for accountability on cases of corruption.

## India

On the evening of 27 November 2020, the house of Mr. Rakesh Singh Nirbhik, a journalist working with the local media, Rashtriya Waroop Newspaper, was burned down by three assailants. Mr. Nirbhik and his friend, Mr. Pintu Sahu, were found with severe injuries inside his home in Balrampur, Uttar Pradesh. Mr. Sahu died on the spot, while Mr. Nirbhik was brought to King George Medical University and died few hours later.<sup>15</sup> Fortunately, the journalist's wife and two children were staying over at a relative's place that night.

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<sup>10</sup> <https://www.bbc.com/indonesia/indonesia-53269896> (Bahasa Indonesia)

<sup>11</sup> Previously, KPK staff was not required to be a civil servant, due to the independency status of the institution.

<sup>12</sup> <https://voi.id/en/news/50110/the-national-insight-test-at-the-kpk-is-considered-to-be-removing-employees-who-have-different-political-views-with-the-government>

<sup>13</sup> <https://en.tempo.co/read/1512125/today-57-kpk-employees-officially-fired>

<sup>14</sup> <https://www.cnnindonesia.com/nasional/20210601173902-15-649187/infografis-pertanyaan-konyol-dalam-twk-kpk> (Bahasa Indonesia)

<sup>15</sup> <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/india-journalist-in-arson-attack-after-reporting-on-corruption.html>

Mr. Nirbhik told the hospital official that he was writing on alleged corruption committed by local village head, Ms. Sushila Devi and her sons, ahead of the local election. He was writing articles alleging corruption in construction projects such as roads, sewage, and solar panels. “This is the price for reporting the truth”, said Mr. Nirbhik in a video recording taped by the police in the hospital.

Three perpetrators were arrested on 30 November for this attack. Two of Ms. Devi’s sons, Keshwanand Mishra and Lalit Mishra were among the perpetrators, as well as Mr. Akram Ali, a pyrotechnic expert, who all confessed to the arson attack. The police found that in the morning of the incident, Keshwanand Mishra spoke to Mr. Nirbhik over phone five times and called him 22 times, and later he deleted all the call logs on his phone.

The night of the incident, Keshwanand Mishra visited Mr. Nirbhik’s house, to convince him to stop writing on the corruption allegation against his mother. One of the perpetrators, Mr. Ali, has a criminal past with murder and arson. He allegedly executed the crime by pouring the alcohol-based sanitiser over Mr. Nirbhik and his friend and set them on fire and bolted the door from outside, to make it look like an accident.<sup>16</sup> It is feared that the perpetrator might not receive appropriate punishment, considering the high rate of impunity on killings against journalists in India, as recorded by the International Federation of Journalists.<sup>17</sup>

## Kyrgyzstan

Corruption has been a major issue in the country in the past years and harassment against defenders working on anti-corruption issues is systematically increasing. On 9 January 2020, at about 12.30 pm, the editor in chief of FactCheck, Mr. Bolot Temirov was physically assaulted by three unknown assailants near his office in Bishkek. He was hit from behind, pushed, and kicked. His mobile phone was also stolen. He lost a tooth and suffered bruises over his face. A day before the attack, his neighbours shared that some people visited them and asked where the FactCheck office was.<sup>18</sup>

In the previous month, FactCheck’s website, who mainly investigates allegations of corruption by public officials, received denial-of-service (DDoS) attacks, together with other websites using FactCheck’s material. The websites published the investigative report on the alleged corruption of former deputy chief of Kyrgyz customs, Mr. Raimbek Matraimov and its affiliates, who are at the center of a corruption scandal in the customs service, amounting to up to one billion US Dollars. Mr. Temirov was also subject to online harassment by hired trolls, saying that he is the enemy of people, or a west agent.<sup>19</sup>

Media outlets and journalists are also subject to judicial harassment through lawsuits, as experienced by two Kyrgyz news media outlets, Radio Azattyk and the website Kloop, and the journalist Ali Toktakunov, due to their investigative reporting on organised crime and

<sup>16</sup> <https://indianexpress.com/article/india/village-pradhans-son-among-3-held-in-up-journalist-death-case-7074683/>

<sup>17</sup> <https://www.ifj.org/media-centre/news/detail/category/end-impunity-2020/article/endimpunity-india.html>

<sup>18</sup> <https://eurasianet.org/kyrgyzstan-activists-under-siege-as-repression-escalates-sharply>

<sup>19</sup> <https://cpj.org/2021/03/kyrgyz-journalists-online-fake-farms/>

corruption back in 2019, involving Mr. Matraimov. The Matraimov family sued the media outlets and journalist with libel and asked indemnity in the amount of approx. 900,000 US Dollars.<sup>20</sup> The lawsuit was eventually withdrawn by Mr. Matraimov's lawyer and the Bishkek Court ruled that the case closed on 27 April 2021. Two weeks earlier, the Kyrgyzstan's State Committee for National Security stated that the corruption probe against Mr. Matraimov had been halted, because investigators failed to find any cash or property belonging to him or his family members abroad.<sup>21</sup>

### Women Human Rights Defenders under attack

FORUM-ASIA noted that Women Human Rights Defenders (WHRDs) working on anti-corruption issues are also targeted due to their work. In Bangladesh, Ms. Rozina Islam, an investigative journalist from Prothom Alo newspaper, was arrested on 17 May 2021 under the Official Secrets Act, and faces up to 14 years in prison and even death penalty. Ms. Islam went to the Health Ministry to meet the health service secretary, where she was confined in a room for almost six hours, physically harassed, and then taken to the police. She was accused by the Health Ministry of stealing government documents related to the procurement of Covid-19 vaccine.<sup>22</sup> On 11 August, the Bangladesh Financial Intelligence Unit ordered an investigation against all the financial transaction done by Ms. Islam, as an attempt to further harass the WHRD.<sup>23</sup>

In Vietnam, pro-democracy WHRDs, who highlight corruption issues in the country are also commonly targeted for expressing their views in offline and online spaces. Ms. Pham Doan Trang, an award-winning journalist, was arrested on 6 October 2020 with fabricated charges of committing anti-state propaganda, that carries up to 20 years in prison. This provision has often been used to criminalise defenders, such as Ms. Trang, who raise her voice against human rights violations and corruption practices in the country.<sup>24</sup>

On 10 November 2020, two local Filipino journalists Ms. Mia Concordia and Mr. Virgilio "Bagwis" Avila Jr. were detained for six hours, over a cyber libel case filed by the governor of Camarines Norte Province. The case stemmed from a social media post published by the two journalists, criticising the alleged negligence in Covid-19 response as well as corruption. They were eventually released on bail.<sup>25</sup>

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<sup>20</sup> <https://rsf.org/en/news/absurd-lawsuit-against-media-outlets-over-corruption-expose-kyrgyzstan>

<sup>21</sup> <https://www.rferl.org/a/kyrgyzstan-matraimov-withdraws-lawsuit-rferl/31229736.html>

<sup>22</sup> <https://www.dhakatribune.com/bangladesh/dhaka/2021/05/17/prothom-alo-journo-handed-over-to-police-by-health-ministry>

<sup>23</sup> <https://rsf.org/en/news/financial-probe-latest-form-harassment-bangladeshi-reporter>

<sup>24</sup> <https://vietnamhumanrightsdefenders.net/2020/10/07/vietnam-leading-human-rights-defender-pham-doan-trang-arrested-and-charged-with-conducting-anti-state-propaganda-as-communists-hold-plenum-to-prepare-for-13th-national-congress-2/>

<sup>25</sup> <https://newsinfo.inquirer.net/1359065/2-camarines-norte-journos-jailed-for-six-hours-over-cyber-libel-case-nuij>

## Conclusion

As demonstrated above, defenders working on anti-corruption issues clearly face serious threats for doing their work. In many cases, corruption involves multiple actors, including influential figures in the government or community. This situation perpetuates the culture of impunity since these perpetrators are well connected and can use their influence to impede the legal process.

The Covid-19 pandemic has also been used by state and non-state actors to abuse their power and foster corruption, while those exposing the irregularities, including the misuse of public funds are intimidated, threatened, or even killed. It is also important to note that a big amount of Covid-19 crisis fund sent to Asian countries are foreign aid funds.<sup>26</sup>

An independent judiciary is key to ensuring that perpetrators attacking anti-corruption defenders are brought to justice. Moreover, the provision of effective protection for whistleblowers and witnesses are needed to foster an enabling environment for defenders to conduct their work without fear of reprisals. Yet, instead, judicial harassment, including through Strategic lawsuits against public participation (SLAPPs), remains the most common form of harassment not only against anti-corruption defenders, but all categories of defenders across Asia.

FORUM-ASIA emphasizes the urgent need for proper and impartial investigations against cases of harassment, regardless of how big the perpetrators' influence is. In the countries where there is a functional National Human Rights Institution, these institutions should play a more proactive role in providing protection to the anti-corruption defenders.

UN Special Procedures Mandate Holders can also play a key role in pushing for proper investigation of cases and provision of effective protection to anti-corruption defenders. They should directly question non-state actors, including corporations, who either allegedly or clearly harass defenders for exposing corruption practices.

Lastly, the international community, including UN agencies should continue to push for the holistic protection of defenders and bring perpetrators to justice.

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<sup>26</sup> <https://www.weforum.org/agenda/2021/04/foreign-aid-2020-covid-19-oecd/>