



Media in the Digital Age

Submission by HRHF to the Special Rapporteur on freedom of opinion and expression

Introduction

This is a submission to the UN Special Rapporteur on the freedom of opinion and expression in response to the mandate's call for inputs toward her upcoming report to be presented at the 50th session of the UN Human Rights Council.

Human Rights House Foundation (HRHF) establishes, supports, and connects Human Rights Houses - coalitions of civil society organisations working together to advance human rights at home and abroad. Today, 16 Houses in 11 countries are united in an international network of Human Rights Houses. HRHF and the Human Rights Houses together advocate for the freedoms of assembly, association, and expression and the right to be a human rights defender. These four rights underpin a strong and independent civil society and protect and empower human rights defenders.

Smear campaigns against HRDs in the digital age

HRHF, alongside its partners across the region, has seen a general deterioration in the human rights situation for human rights defenders and journalists in a number of countries in recent years. In some contexts, a component in this trend has been the growth of online smear campaigns, disinformation, and instances of hate speech targeting human rights defenders, which can then have offline consequences, with numerous examples of physical attacks following online threats. Such smear campaigns and threats often include the complicity of the state and traditional media. The Covid-19 pandemic has largely intensified these trends.

Armenia

For the last two years human rights defenders (HRDs) and human rights organisations in Armenia have been subjected to raised levels of hate speech and disinformation, to physical attacks and online threats. The situation was further aggravated after the agreement on ceasefire, reached between Armenia and Azerbaijan after the 2nd Karabakh war on 9 November 2020. The Armenian Service of Radio Free Europe/Radio Liberty, Helsinki Citizens' Assembly Vanadzor and the Open Society Foundation Armenia were attacked immediately after the agreement was announced. Though an investigation was launched, no one has been held accountable for these attacks so far. The inability of the Armenian government to protect HRDs and voice support for them has created an atmosphere of impunity, enabling the right-wing nationalistic groups and movements to make HRDs and human rights organisations their primary target.

Georgia

In Georgia, human rights defenders – particularly those working on LGTBQI, religious or ethnic minority rights – are facing increasing attacks in the media and online from state-licensed media outlets and far right extremist organisations and individuals. For example, last year, in January 2021, the TV channel "Alt TV" aired a segment designed to incite threats and violence against the human rights organisation Human Rights Education & Monitoring Center (EMC) programs director – Tamta Mikeladze. Alt TV recently received a license issued by national communication commission to

operate despite evidence of promoting violent, homophobic, and xenophobic messages in its broadcasts. That incident followed a disturbing pattern that has emerged in Georgia since 2018. That year, far-right extremists brutally murdered human rights defender Vitali Safarov. Prosecutors charged the perpetrators with an ethnically motivated hate crime following witness testimony that he had been killed by neo-Nazis because he was Jewish. However, the court found the defendants guilty of group murder rather than guilty of a hate crime. The following year, organizers of Tbilisi Pride Week faced violent counter demonstrations, verbal assault, and violent threats from far right, ultra-nationalist groups. Later, law enforcement agencies refused to offer protection to Pride Week activities citing increased risks and threats from radical groups. In 2020, attacks against Tbilisi Pride activities continued with far-right extremists throwing paint and eggs at Tbilisi Pride's office, organizing demonstrations in front of the office, and voicing physical threats against Pride's activists.

Surveillance of HRDs and journalists

On 26 July 2021, Human Rights House Foundation, alongside more than 150 civil society organisations and independent experts, called on States to immediately implement a moratorium on the sale, transfer and use of surveillance technology.

The revelations about the use of NSO Group's spyware to facilitate human rights violations around the world – including the direct targeting of some of HRHF's partners in Azerbaijan – require serious and immediate responses. The lack of robust legislative frameworks and democratic controls over the use of these technologies has only encouraged this industry to expand and enabled widespread human rights violations. Surveillance, in any form, unarguably infringes the right to privacy and has a chilling effect on freedom of expression. Where illegal surveillance is known or suspected to be carried out, independent, exhaustive and comprehensive investigations should be undertaken. As long as these abuses are not fully examined, they will continue to represent a serious obstacle to free journalism and the defence of human rights, a risk to the privacy of anyone anywhere, and a serious threat to democratic institutions.

Media pluralism

Azerbaijan

Within an environment that is already hostile to independent media, Azerbaijan's parliament is considering a new legislation imposing new media restrictions. Among the draft bill's potential new regulations is a registry of state-sanctioned journalists, who would have to fit specific criteria to be included. Owners of media outlets will have to live in Azerbaijan, effectively banning many of the country's independent media which are run by Azerbaijanis who fled the country's already repressive media environment. Media outlets will face significant new red tape when seeking formal registration and journalists will also be prohibited from "propagating superstitions."

Belarus

Belarus recently celebrated 30 years of independence. Yet, throughout that entire time, the Belarusian authorities have consistently attacked and repressed independent media and journalists, including through legislation. The situation has continued to deteriorate following the 9 August 2020 presidential election. In 2020 alone, authorities detained 480 journalists who spent, collectively, more than 1,200 days behind bars.

2021 saw a further escalation in attacks on independent media in Belarus. On 18 May 2021, authorities searched the editorial office, local offices, and homes of journalists and editors of internet portal TUT.BY, as well as the editorial offices of TUT.BY's sub-divisions, AV.BY and RABOTA.BY. Almost simultaneously, the authorities blocked access to tut.by website and opened a criminal case against officials of TUT.BY MEDIA LLC.

On 27 August 2021, the Belarus Supreme Court ordered the liquidation of the Belarusian Association of Journalists (BAJ). This was a politically motivated action taken by a judicial system that has been consistently criticized by the international community for a lack of independence. BAJ is a Belarusian professional association of journalists. It aims to protect freedom of speech and freedom of information and promote the professional standards of journalism. It is the only true independent association of journalists in the country. BAJ was formed in 1995, when 37 journalists united to resist the clampdown on the freedom of expression. Since then, BAJ has been a national champion for independent media, serving journalists and media, fighting for their rights and freedoms, holding solidarity campaigns, and providing legal advice and support.

On 23 May, Ryanair flight 4978 from Athens to Vilnius was forced to divert to Minsk National Airport in what the international community has condemned as “state-sponsored hijacking”. In what is widely considered the reason for the forced diversion, Belarusian authorities subsequently detained a passenger, journalist and political activist Raman Pratasevich. Authorities are actively targeting independent Belarusian media and journalists outside of Belarus.

Then, On 24 May, amendments to three important pieces of legislation were signed into law further attacking Freedom of Expression and Freedom of Assembly; namely, amendments to the Law on Mass Event, Law on Mass Media, and Law on Telecommunications.

Russia

Russian independent media, and investigative journalism in particular, is under grave threat. From the very beginning of his presidency Vladimir Putin has cracked down on independent media through different means: legislative restrictions, change of ownership, fines and criminal charges. These policies have led to a complete change in the Russian media landscape, which is now dominated by outlets controlled by the state or the President’s long-time friends. The major TV channels belong either to the state directly (like RT and Rossiya) or the National Media Group controlled by Yuriy Kovalchuk, who the U.S. Treasury described as, “the personal banker for senior officials of the Russian Federation including Putin.” The ownership of major Russian newspapers and online media has also changed in the last decade leading to resignations of key editors and reporters and censorship in once independent outlets.

The past few years have seen a resurgence of investigative media with new organizations doing some of the best work ever done by Russian media. However, during 2021, attacks by the Kremlin on what remains of the independent media escalated. On 9 April, officers of the Federal Security Service led by an investigator from the Investigative Committee of Russia raided the apartment of Roman Anin, the prominent Russian investigative reporter and founder of IStories, an online independent media outlet. Anin has led numerous groundbreaking investigations into organized crime and corruption in Russia and has received prestigious Russian and international awards for his stories. All digital devices, notebooks, sim-cards and documents were seized from Anin’s apartment and IStories offices were also searched. None have been returned. After a seven hour search, Anin was taken to the Investigative Committee for interrogation. Anin is currently considered a witness in the case, but that status could change any day to a suspect and defendant, which could ultimately result in a four year prison sentence. The pretext for the raid of Anin’s apartment and the offices of IStories was a criminal case started five years ago following the criminal complaint by Olga Rozhkova, ex-wife of Igor Sechin, the head of the state controlled oil company Rosneft and one of the most powerful man in Russia. Rozhkova accused Anin of using photos from her Instagram account without her permission for a story about the luxurious yacht St. Princess Olga. Documents from the criminal case show that Russian security services used this case as a pretext to put Anin under surveillance for the last several years, which included interception of his phone calls and online communications, hacking of his email and other forms of surveillance. These draconian actions in response to Anin’s use of a readily

available Instagram photo amount to a violation of Anin's freedom of expression and harassment of the media by the state.

On April 23, the Russian Ministry of Justice proclaimed Meduza, the biggest independent online news outlet in Russia, as a "foreign agent." Recently introduced by Russian legislators, this status imposes a number of irreversible restrictions on a media outlet which — if not followed — can further lead to huge fines, blockage of the media's website and criminal prosecution of its reporters. These attacks, in addition to more than a dozen restrictive laws adopted by the state against the freedom of expression in the last decade, show that the Kremlin intends to silence independent media outlets and deprive Russian citizens of truthful information.

SLAPPs

Another rising trend threatening media in the digital age is the use of "strategic lawsuits against public participation" (SLAPPs), which are abusive lawsuits filed with the purpose of shutting down acts of public participation, including public interest journalism, peaceful protest or boycotts, advocacy, whistleblowing, or simply speaking out against abuse of power. SLAPPs target anyone who works to hold the powerful to account or engage in matters of public interest: so-called "public watchdogs". This includes journalists, activists, rights defenders, whistleblowers, civil society organisations, trade unions and professional associations, academics.

As part of a global trend, the use of SLAPPs to intimidate and silence public watchdogs is on the rise in Europe. Insufficient awareness of the issue has prevented a regular and comprehensive mapping of SLAPPs, and their effects, across Europe. Nonetheless, a rising number of SLAPP suits or threats thereof have been exposed in recent years by civil society organisations. Between 2019 and 2021, the Coalition Against SLAPPs in Europe (CASE, of which HRHF is a member) collected data from its members and from other civil society groups on apparent SLAPPs filed between 2010 and 2021, which led to the identification of 539 verified SLAPP cases across Europe.

The use of SLAPPs and legal intimidation has a chilling effect on freedom of expression, blocking the ability to expose wrongdoing and shutting down publication on matters of public interest. SLAPPs weaken democracy by preventing individuals and civil society organisations from engaging in public debate and impeding the exercise of rights to free speech, assembly, and association.