

MEDIA FREEDOM IN SOUTHEAST ASIA

Repeal Restrictive Laws, Strengthen Quality Journalism



MEDIA FREEDOM IN SOUTHEAST ASIA:

Repeal Restrictive Laws, Strengthen Quality Journalism

2022

Asia Centre

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The internet has greatly impacted how one consumes information and who can perform the role of a journalist. This has led to a mixed outcome. On the one hand, the internet has provided a means by which a myriad of new actors can express themselves and lowered the barrier for online content creation. On the other hand, these channels are open to abuse, leading to the explosion of online disinformation.

This has led to discussions on how to mitigate the negative excesses of online media without destroying its positive aspects. However, legislation to manage digital content has led to the erosion of media freedom as governments exploit these laws to shape online content for their own benefit.

As a result, journalists today, female journalists in particular, are in a precarious position: they speak truth to power under the shadow of growing risks of reprisal from governments. They also have to compete with new online actors that use online platforms with little regard to media ethics or integrity, which often drowns out credible reporting and gives justification for governments to exercise laws to control online media.

This report proposes solutions on how best to equip journalists and other key actors to fulfil their vital role in a changing landscape. While censorship is an alluring option in the face of disinformation over the internet, it is important to find avenues to facilitate the responsible and ethical use of the medium.

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Media Freedom in Southeast Asia: Repeal Restrictive Laws, Strengthen Quality Journalism is dedicated to journalists, independent media organisations, journalist associations, CSOs and INGOs who advocate and work to ensure media freedom in Southeast Asia despite the attempts by authorities to persecute and shut them down.

Your Sincerely



Dr. James Gomez
Regional Director
Asia Centre



Abbreviations

AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
CCPR	Political and Civil Rights
COVID-19	Coronavirus Disease 2019
CSO	Civil Society Organisation
HRC	Human Rights Committee
HRD	Human Rights Defender
IPDC	Intergovernmental Council of the International Programme for the Development of Communication
ICCPR	International Covenant on Civil and Political Rights
ISP	Internet Service Provider
NGO	Non-Governmental Organisation
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner For Human Rights
PHRP	Philippine Human Rights Plan
SEA	Southeast Asia
SDG	Sustainable Development Goal
SR	Special Rapporteur
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHRC	United Nations Human Rights Council
US	United States
VNR	Voluntary National Report

Executive Summary

Media Freedom in Southeast Asia: Repeal Restrictive Laws, Strengthen Quality Journalism examines the use of fake news legislation to crack down on legitimate journalistic expression. While the negative dimensions of online content are of concern, there is an increased use of legislation to erode media freedom. Instead, the focus should be on promoting the responsible and ethical use of online media platforms that can empower credible actors to counterbalance online disinformation through verified information.

Starting from the late 1990s, the internet has revolutionised content creation and consumption and the news industry. Printed newspapers have been displaced by online news sources — whose origins could be traced back to the early 2000s and the creation of online blogs or web portals — and freelance journalists. In the 2010s, the disruption continued and shifted to social media platforms, giving rise to online content curators.

There is an antagonistic relationship between governments and the independent media in the region. Governments have traditionally sought to control the flow of information in the name of nation-building and national security, and this control has transferred onto the online media. While the internet has allowed more actors to participate in journalistic enterprises, it has also allowed the government to better monitor and police their activity. The medium has changed, the methods have not: just as the Printing Press legislation was used to limit the dissemination of printed media, fake news laws are used to monitor and control the internet infrastructure over which information critical or unflattering of the government can be disseminated.

There are four sets of legislations that deal with fake news that governments use to silence journalists and media workers from critical reporting: penal codes, anti-fake news laws, electronic, multimedia and computer usage legislation, COVID-19 temporary laws and state of emergency decrees. These laws contain vaguely-worded provisions penalising the act of spreading disinformation or information that authorities consider harmful to national security, public order and social harmony.

The omni-presence of the government on the internet and its persecution of users, has led to self-censorship. Hence, the thrust of the report's recommendations directed at international organisations, governments, media organisations and technology companies is that, apart from repealing and amending restrictive laws, policies that promote ethical and quality journalism should be pursued to strengthen media freedom and remove the fear of reprisals.

Rapidly developing technology has significantly altered the media landscape. The ability for anyone to say anything and reach an audience has led to an explosion of online media. The challenges of mitigating its worst excesses has been used by the government to promote restrictive laws. But rather than stifling the potential of online media, it is important to focus on professionalism and ethical practice to strengthen online quality journalism.

1 Introduction

This report assesses the state of media freedom in Southeast Asia. It identifies the key issues such as the rise of internet and social media and how it has led to a plethora of online media. It examines how technology has impacted the profession of journalism, the sustainability of media organisations, and the persecution of journalists and media organisations through the use of fake news laws by governments. The report concludes with a series of recommendations which go beyond the call to repeal and amend restrictive laws and to emphasise the use of ethical and professional standards to spur media freedom.

1a Methodology

Desk research and online interviews were undertaken during the months of October 2021 to December 2021 and incorporates data gathered from August 2020 to October 2021. The countries covered are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor-Leste and Vietnam, hereafter referred to as Southeast Asia. The research includes a review of primary document from the United Nations (UN) such as the thematic reports of the UN Special Rapporteur on Freedom of Opinion and Expression (from 1994 to 2021), the UN Plan of Action on the Safety of Journalists and the Issue of Impunity (2012) with its follow-up outcome report for strengthening the Plan of Action (2017), the UNESCO Director General's Biennial Report on the Safety of Journalists and the Danger of Impunity as well as the Voluntary National Reviews (VNRs) of the Sustainable Development Goals (SDGs) 16.10.1 on ensuring public access to information and protecting fundamental freedoms. Other documents include national legislations, reports of civil society organisations (CSO) and international organisations who publish reports and indices on internet and press freedom. Lastly, the research includes assessments drawn from interviews with full-time journalists, freelance journalists and representatives of independent online media to gather their views on the state of media freedom in the region. The report builds on Asia Centre's earlier baseline study *Defending Freedom of Expression: Fake News Legislation in East and Southeast Asia* (2021).

1b Background

Even as Southeast Asian countries gained their independence or navigated the colonial powers, they struggled to protect and promote fundamental freedoms and human rights. Although several countries in the region have ratified a number of international human rights treaties and are all part of the ASEAN Intergovernmental Commission on Human Rights (AICHR), it has had little or no bearing on their rights record. In recent years, several countries have witnessed a return toward authoritarian tendencies (Asia Centre, 2021a): in Myanmar the military took over power in February 2021, declaring a national state of emergency; a democratically elected change in government in Malaysia gave way to a backdoor return of an UMNO Prime Minister in August 2021; the Philippines saw populist President Rodrigo Duterte and his family members continue to seek political influence by contesting in the 2022 elections; in Thailand, developments following the 2014 military coup has seen its constitution revised and the King gaining more political influence with the support of the military. COVID-19 health measures such as social distancing, travel restrictions have barred journalists from press conferences and the opportunity to question authorities and hold them accountable. These developments are major contributory reasons why media freedom has been set on the backfoot in the region.

In tandem with this democratic backsliding, the shift in news consumption from online to social media platforms has meant content creation is now immediate, decentralised, diverse and not subject to regulations or fixed standards. There is a shift in the medium through which people consume information, suggesting a transition of media consumption from traditional media (radio, press, etc.) towards accessing digital content over mobile phones and portable tablets (Global Web Index, 2019). The shift to social media has also resulted in disinformation being cited as a reason for governments to target critical voices. During the COVID-19 pandemic, much of the criticism was directed towards government mismanagement of the health crisis and governments have been especially sensitive to such criticisms. But disinformation is not only used to justify the introduction of new legislation to combat so-called fake-news. Public threats and physical attacks are routinely faced by journalists. However the greatest number of attacks on journalists comes through legislative measures that persecute libel, slander or sedition. Nobel prize winner Maria Ressa is only the latest victim who faced charges on account of cyber libel in June 2020 (Buan, 2020). In spite of an underrepresentation of women in the media (ITU News, 2021). Female journalists face greater structural barriers in media, including harassment and attacks in news rooms (Nyein, 2018).

Revoking licences, raiding offices, persecuting journalists or hacking online sites are other tactics authorities have used in Southeast Asian countries. For example, in the Philippines, President Duterte ordered the non-renewal of the licence for broadcasting channel ABS-CBN in July 2020. In Myanmar, the military junta revoked the licences of five independent media companies in March 2021 (VOA News, 2021a). Governments also target journalists online by investing in trolls and fake accounts, such as the case in Thailand and the Philippines. Another move, are laws to elicit compliance from technology companies to take down content or delete accounts without the need for court orders (Asia Centre, 2021b) such as the Protection from Online Falsehoods and Manipulation Act (2019) in Singapore or an attempted 'fake news' ban - Announcement No. 29 under the emergency decree for COVID-19 by the Thai government in July 2021. Collectively, fake news on the internet, COVID-19, and government crackdowns have also impacted the sustainability of independent journalism as a business.



The uptake of digital media over the traditional media poses challenges for authoritarian governments in Southeast Asia and elsewhere. Unable to effectively control content that is being created and shared via online platforms, governments in the region have resorted to a number of legislation to limit critical content and criticism directed at them. Everyday problems – such as online financial scams, fake news and hate speech – also provide governments with arguments to come up with laws to regulate online activities, especially sharing and transmitting information.

This development has had several implications with regards to media freedom. The main consequence is self-censorship, which has become more evident as journalists become cautious about publishing content critical of governments.

1c Media Freedom in Southeast Asia

Media freedom here is defined as 'the freedom of each individual to freely communicate or publish via all

channels as well as to receive information via all channels' (Schneider, 2020). According to the UN human rights mechanisms such as the UNHRC in its General Comment No. 34 on Article 19, journalists are defined as 'individuals who observe and describe events, document and analyze events, statements, policies, and any propositions that can affect society, with the purpose of systematizing such information and gathering of facts and analyses to inform sectors of society or society as a whole' (UNHRC, 2012). On functionality, 'journalism' is defined as a function of engaging in forms of self-publications by 'a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others' (ICCPR Human Rights Committee, 2011). A journalist is therefore a person who engages in a reportage of events via a variety of platforms such as radio or television broadcast, printed newspapers, and online news websites or social media applications. This also encompasses bloggers and information influencers.

Media freedom is not the same as press freedom. With the rise of online media, the form and vector of publications have changed. Media freedom is more encompassing and hence also includes internet and press freedom. Furthermore, media freedom should be viewed as human rights, since it is a 'conglomeration' of fundamental freedoms including the freedom of thought, opinion, speech, expression, information, internet and the press (Schneider, 2020).

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Government interference can infringe upon media freedom. This includes censorship, intimidation, persecution, and threats to journalists and news outlets, as well as regulation of the media (Lamer, 2019). In this section, important indices for an overview of the current state of media freedom in Southeast Asia are presented and the main developments summarised. As mentioned above, the working definition of media freedom in this report is that it encompasses internet and press freedom. As such, Freedom House's 'Freedom on the Net' and the 'World Press Freedom' indexes are referenced to see how Southeast Asia fares in these various aspects of media freedom.

According to the 2021 World Press Freedom Index, all Southeast Asian countries, except Timor-Leste, ranked below the top 100 on the index compiled by Reporters Without Borders (RSF) (RSF, 2021a). One party-states such as Laos, Singapore and Vietnam ranked among the lowest in the region due to their heavy-handed approach towards the media. Other factors such as the implementation of new vaguely-worded laws, state-controlled media and government crackdowns on fake news scored Southeast Asian countries into the lower end of the World Press Freedom Index (Parameswarn, 2020). Malaysia saw the worst decline, falling 18 points from the year before, mainly attributed to the change of government since Prime Minister Muhyiddin Yassin assumed office in March 2020. This also confirms that, apart from Timor-Leste, every country in the region has seen their freedom of the press ranking either decline or remain stagnant in the last five years (see table 1).

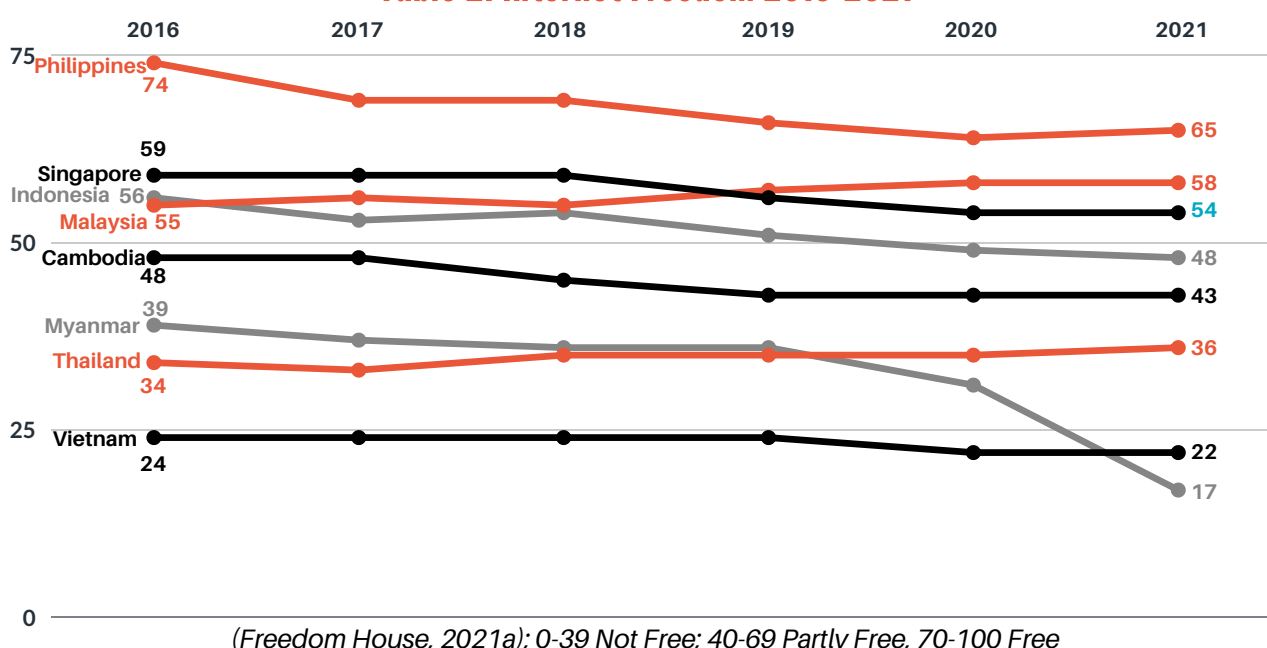
Table 1: Press Freedom in Southeast Asia 2020-2021

Country	Index		Global	
	2020	2021	2020	2021
Brunei	49.7	49.9	152	154
Cambodia	45.5	46.8	144	144
Indonesia	36.8	37.4	119	113
Laos	64.3	70.6	172	172
Malaysia	33.1	39.5	101	119
Myanmar	44.8	46.1	139	140
Philippines	43.5	45.6	136	138
Singapore	55.2	55.2	158	160
Thailand	44.9	45.2	140	137
Timor-Leste	29.9	29.1	78	71
Vietnam	74.7	78.5	175	175

(RSF, 2021a); 0 = best possible score, 100 = worst

Most Southeast Asian countries face an oppressive environment, and all of them except for Timor-Leste have been ranked as either partly free or not free by Freedom House, which ranks the freedom score based on political rights and civil liberties (Freedom House, 2021a). In countries such as Cambodia, Myanmar, Philippines and Thailand, independent news outlets and journalists are operating in repressive environment that is either endangering their lives or are facing repercussions from the government. Laws and regulation are used as a tool to hinder the ability of journalists to do critical reporting that does not align with the government narratives.

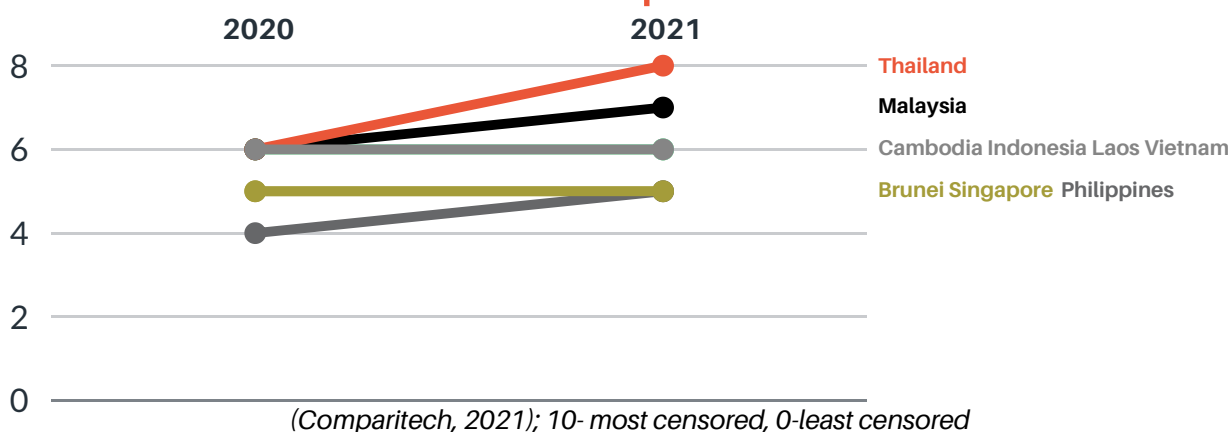
Table 2: Internet Freedom 2016-2021



In terms of internet freedom, the 2021 Internet Freedom Report by Freedom House notes that in the 8 Southeast Asian countries it assessed, the internet is either partly free or not free (see table 2). This is mainly due to draconian laws imposed and the manipulation of information for political gains by the government (Shahbaz and Funk, 2021). The general trend of all Southeast Asian countries in the index shows a year by year deterioration of internet freedom. In particular Myanmar, which witnessed a military coup in February 2021, experienced a suspension of digital rights due to internet shutdowns and curfews.

Malaysia, which got rid of its controversial fake news law in 2019, and Thailand, which shifted from a military junta into an elected government in the same year, are the only countries to see an improvement in internet freedom. Yet, they are still labelled partially and not free. One of the main reasons behind the downward trend is the increasing government attacks on dissenting individuals and organisations on the internet. This is done using various legislative and the implementation of access controlling measures such as blocking of certain websites and social media posts.

Table 3: Censorship Score 2020-2021



According to the 'Internet Censorship 2021: A Global Map of Internet Restrictions', 6 Southeast Asian countries, namely Cambodia, Indonesia, Laos, Malaysia, Thailand and Vietnam ranked within the 30 worst internet censorship in the world (see table 3). One of the reason why all Southeast Asian countries are ranked low in the index is due to their censorship such as Torrent restriction, VPN (Virtual Private Network) restriction, pornography, social media restriction and most importantly restriction and censorship of political media (Bischoff, 2020). Thailand saw a considerable worsening of censorship, which is mainly due to the taking down of adult sites, but also the heavy censoring of political media (Fairfield, 2021).

Media outlets operate in a free or partly free political and civil environment in Southeast Asia. The past year in particular has seen the worst decline both in terms of press freedom and internet freedom. What this means is that there is an information gap between the content pro-government outlets offer and the critical and investigative reporting that some media outlets and journalists produce. These incidents have also caused a trust deficit in mainstream media and government sources of information and is driving people away from these information sources towards alternative outlets or content on social media instead. As a result there is a rising public desire and momentum that is shifting towards increased use of social media for alternative, independent and user generated news consumption.

1d Adherence to International Standards

International standards for press freedom and the treatment of journalists are articulated in several key UN documents: Article 19 of the UDHR and the ICCPR, reports emanating from the Universal Periodic Review (UPR) and interactive dialogues with special procedures mandate holders, progress reports on SDG 16.10.1 to be achieved by 2030 and the implementation of the United Nations Educational Scientific and Cultural Organisation's (UNESCO) Plan of Action. Progress and adherence to these international standards can be tracked through member states' ratification of relevant treaties and their reportings to these mechanisms.

Article 19 on UDHR states, 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers'. Although the UDHR is non-binding, the ICCPR, a resulting international agreement of the UN Charter, is legally binding. Article 19(2) reaffirms the statement found in the UN Charter and adds that 'Everyone shall have the right to hold opinions without interference' as well.

as clarifying that the statement in paragraph 2 may be subject to restrictions, but only as long as the rights or reputation of others are respected and for the protection of national security or public order. Further General Comment No. 34 of the ICCPR acknowledges that communication channels have diversified with technological development (Paragraph 15) and elaborates that freedom of expression encompasses 'all forms of audio-visual as well as electronic and internet-based modes of expression' (Paragraph 12). Furthermore, when a State party imposes restrictions on media freedom, these restrictions may not put in jeopardy the right itself. To date, Cambodia, Indonesia, Laos, Philippines, Thailand and Timor have either signed or ratified the ICCPR, while Brunei, Malaysia, Myanmar and Singapore have not done so. With those countries lacking ratification statutes, Article 19 can be used only as a 'persuasive guidance on the scope of obligations' of a country (OHCHR, 2019). Meanwhile, countries continue to restrict and suppress independent media.

The UPR process of the United Nations Human Rights Council¹ to assess the human rights records of the member states (OHCHR, 2021b) reveals that over three cycles since 2008, there has been a constant threat directed at journalists and media outlets that have faced access disruptions and closure. Reporting on persecution in the 3rd cycle (2017-2022) in particular drew attention to censorship of content on online platforms such as social media.

The Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression,² in operation since 1994, has noted as early as 1998, the decline of traditional forms of press and the impact 'new technologies' may have on freedom of information and expression (UNCHR, 1998). These new technologies, including the internet, were the focus in each report until 2002. After a hiatus due to the 9/11 terrorist attacks, from 2005 onwards, issues in the digital age once again took center place. These include digital access to information (UNHRC, 2017), online content regulation (UNHRC, 2018), surveillance (UNHRC, 2019), online hate speech (UNGA, 2019), in 2020 the pandemic and its effect on freedom of expression (UNHRC, 2020), and recently the problem of disinformation (UNHRC, 2021). Apart from the annual thematic reports, the Special Rapporteur may also request to visit countries in order to assess the situation on the ground. Such visits are usually required because certain countries have not seen an improvement in their human rights record on specific aspects or have not been transparent about developments. The frequency of these 'fact-finding missions' (OCHR, 2021a) provides a general indication of the state of media freedom across the region.

¹ Countries are reviewed in cycles, and documents reviewed include (1) a national report, (2) a compilation by the Office of the High Commissioner, (3) a stakeholder summary report, (4) the Working Group's report and (5) an Addendum. By the end of 2021, nearly all Southeast Asia countries have undergone 3 cycles of review.

² Since 1994, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has submitted an annual thematic report to the HRC and the General Assembly, identifying key issues that need addressing and formulating a set of recommendations with the view to enhance human rights. These reports receive inputs from a variety of stakeholders including human rights NGOs, academics and member states.

Table 4: Country Visits Requested by the Special Rapporteur since 1994

Country	Visit Period	Status	Standing Invitation
Malaysia	1998	Completed	Yes
Malaysia	2019	Reminder	Yes
Myanmar	2020	Postponed (by the State)	No
Philippines	2022	Reminder	No
Singapore	2020	Postponed (by the State)	No
Thailand	2016	Inactive	Yes
Vietnam	2016	Inactive	No

To date, only the visit to Malaysia in 1998 has been successfully completed, and both Myanmar and Singapore have postponed the request. Equally, the Philippines and Malaysia have not actively responded to the requested visits. While the Special Rapporteur is effective in creating awareness of local ongoing issues, it is questionable whether the Special Rapporteur can influence countries to revise certain regulations and laws or encourage governments to participate more in UN processes. For instance, the Maguindanao massacre in Philippines had been raised as an issue by the Special Rapporteur since 2011 (UNHRC, 2012), but progress has still been extremely slow and it took until 2019 to deliver a verdict.

Under the SDGs,³ goal 16.10 is an important indicator for tracking the protection of freedom of information and expression by governments (Asia Centre, 2021a). Specifically, indicator 16.10.1 seeks to *'measure enjoyment of fundamental freedoms ... on the premise that killing, enforced disappearance, torture, arbitrary detention, kidnapping and other harmful act against journalists, trade unionists and human rights defenders have a chilling effect on the exercise of these fundamental freedoms'* (SDG, 2018). Both Indicators 16.10, and within it 16.10.1, are a crucial part for the creation of peace, justice and strong institutions. Countries that were pointed out to have a track-record of journalists killings and decreasing press freedom levels, such as the Philippines or Myanmar, are expected to provide progress reports on this indicator. . However, so far the VNRs have had little impact on improving both of these indicators (see table 5). Most countries remain vague in their wordings and merely reiterate that their Constitutions protects freedom of information and expression. As press freedom has strongly declined particularly in the past year and censorship increased in most Southeast Asian countries, this regression in Goal 16.10 and 16.10.1 needs urgent attention (see also Asia Centre, 2021a). Meanwhile, Myanmar is the only country yet to submit a VNR and with an unstable government and continuing civil unrest, journalists continue to be targets of the military.

Table 5: VNR progress on Indicator 16.10 in Southeast Asia

Country	VNR (year conducted)	Mention of 16.10 and/or 16.10.1?	Description
Brunei	2020	Vague	Implementation of a national call centre for public to interact with government agencies ensure citizens receive credible information
Cambodia	2020	No	Pledge to increase dissemination of laws and enhance access to judicial information
Indonesia	2017 2019 2021	Yes	2019 VNR states that since 2008, Indonesia guarantees public access to information through Law No. 14, but public institution compliance decreased from 50.38% in 2016 to 39.29% in 2017; report also states that persecution of journalists is considered a serious offence; it also mentioned efforts done in the 1.) implementation of journalistic principles, 2.) alignment of press interests with democratic principles, 3.) maintain independence of press through the Indonesian Press Council as a self-regulatory body
Laos	2018 2021	No	N/A
Malaysia	2017 2021	Vague	2021 report states that Malaysia improved in World Press Freedom Index from place 123 in 2019 to 101 in 2020, reiterates that access to information and freedom of expression are guaranteed in its Constitution, in 2010 Personal Data Protection as well as the Whistle-blower Protection Act
Myanmar	N/A	N/A	N/A
Philippines	2017 2021	Yes	2021 VNR mentions that the government is pursuing a law on Freedom of information and that until then public access to information is guaranteed through Executive Order No.2 of 2016
Singapore	2018	Yes	Mentions that Constitution guarantees the equal protection of all persons before the law and mentioned the creation of public feedback channels for the Parliament to engage with citizens
Thailand	2017 2021	Vague	2017 report states that new measures related to dissemination of information have been implemented, but does not elaborate on these measures; reiterates that Constitution ensure citizens' rights in access to information since 1997; 2021 report again mentions the Constitution and that all persons are equal before the law
Timor-Leste	2019	Vague	Mention the Constitution that provides for the freedoms of peaceful assembly and freedom of expression including for the press
Vietnam	2018	Vague	Mentions Law on Access to Information and Law on Legal Aid in ensuring access to information and protection of fundamental rights; states media outlets and press agencies as an important forum for social organisations, protection of people's rights, and enforcement of legislations

UNESCO, which contributes to a peaceful environment and sustainable development in line with the SDGs 2030, has developed two main mechanisms to promote the safety of journalists. Since 1997 the Director General has published a biannual report on 'The Safety of Journalists and the Danger of Impunity' and in April 2012 UNESCO endorsed the UN Plan of Action on the Safety of Journalists and the Issue of Impunity.

The UN Plan of Action serves as a roadmap that allows various stakeholders to get involved in the fight for impunity for crimes against journalists. Through six concrete actions on the ground - (1) awareness raising, (2) standard setting and policy making, (3) monitoring and reporting, (4) capacity building, (5) academic research and (6) coalition building, the plan aims to promote freedom of expression and provide a framework for the protection of journalists. Countries in Southeast Asia to date still lack specific institutionalised mechanisms to monitor crimes against journalists. In 2018, a number of stakeholders have signed a joint statement for the government in Cambodia to undertake transparent investigations in the crimes committed against journalists (Civictus, 2018). The Philippines is the first country in Southeast Asia to launch its own Plan of Action on the Safety of Journalists in 2019 with the help of UNESCO and aims to improve the safety of journalists over five years from 2020 to 2024 (Asian Institute of Journalism and Communication and International Media Support, 2019). The UN Plan of Action was created nearly a decade ago; however, it can only work effectively if countries show willingness to use it as a guidance. As such, the Southeast Asian region has so far been slow in implementing concrete measures.

The UNESCO Director-General's latest *Report on the Safety of Journalists and the Danger of Impunity*,⁴ produced in tandem with SDG 16.10.1 records Asia and the Pacific having the highest cases of ongoing and unresolved killings in the world (Intergovernmental Council of the IPDC, 2020). Since 2006 until 2019, 112 killings remain unresolved. In effect, the report states that journalists in non-conflict countries experience greater threat to their lives. This has meant that, although Myanmar has seen a decrease in killings, other parts of the region continue to be more dangerous for journalists. For the Philippines alone, 72 cases were registered. This is partly because of the 2009 Maguindanao massacre in which 30 journalists lost their lives. On a positive note, all Southeast Asian countries that received a request for information, which are Myanmar, the Philippines, and Thailand responded to the request, reflecting a trend that the UNESCO mechanism is able to put soft pressure on Member States to comply. Nevertheless, the reports submitted to this mechanism show a trend where a large number of journalists in Southeast Asia continue to be killed. Hence, they are not meeting the international standards of journalists' safety.

In short, this chapter provided a brief overview of political developments in Southeast Asia, which influence the lack of commitment to international human rights standards among countries in the region. A close review of international indices and UN human rights mechanisms confirms that media freedom is not fully enforced nor protected in Southeast Asia. In the next chapter, the changing internet and social media landscape will be explained to show how this development gave rise to the evolution of online media and the problem of online disinformation.

2 Disruption of the Media Landscape

This chapter provides the context to the disruption of the traditional media landscape by reviewing the rate of internet penetration and social media usage in Southeast Asia. It outlines the emergence and evolution of online media as afforded by both the rising use of the internet and social media. Finally, it discusses the phenomenon of online disinformation arising from the proliferation of social media and announcements by the UN and governments to respond to it.

2a Internet and Social Media Usage

In 2021, there were more than 463 million Internet users in Southeast Asia and the region in total experienced a near 10% rise in internet usage from the year before. Equally, 132% of the total population has a mobile connection. Internet accessibility is reflected in the percentage of mobile connections. All countries in Southeast Asia access the internet mainly through mobile phones (see table 6). Southeast Asian countries are spending more time than ever online. In the latest findings by We Are Social and Hootsuite, 4 Southeast Asian countries are in the top 10 countries for hours spent on the Internet, and the Philippines with 10.56 hours takes the first place (We Are Social and Hootsuite, 2021a).

Table 6: Internet and Social Media Usage in Southeast Asia 2021

Country	Population (in millions)	Internet Users	Social Media Users	Mobile Connections	Mobile Internet Users
Brunei	0.44	95% (0.41 million)	99% (0.44 million)	129.3%	99.3%
Cambodia	16.83	52.6% (8.86 million)	71.3% (12 million)	125.8%	991.1%
Indonesia	275	73.7% (202.6 million)	61.8% (170 million)	125.6%	96.4%
Laos	7.33	48.4% (3.55 million)	49% (3.6 million)	79.1%	99.5%
Malaysia	32.57	84.2% (27.43 million)	86% (28 million)	122.8%	96.7%
Myanmar	54.61	43.3% (23.65 million)	53% (29 million)	127.2%	99.8%
Philippines	110.3	67% (3.9 million)	80.7% (89 million)	138.2%	96.5%
Singapore	5.87	90% (5.3 million)	84.4% (4.97 million)	145.5%	93.2%
Thailand	69.88	69.5% (48.6 million)	78.7% (55 million)	129.7%	97.7%
Timor-Leste	1.33	45% (0.6 million)	33% (0.44 million)	109.7%	98.6%
Vietnam	97.75	70.3% (68.7 million)	73.7% (72 million)	157.9%	94.7%

(We Are Social and Hootsuite, 2021b)

As more time is spent online, the way news is being consumed is also changing. A study by Reuters and Oxford University on selected Asian countries shows how news consumption now mainly takes place online with social media making up the largest share. While online news consumption has remained relatively unchanged in the past 3 years, traditional print has dramatically decreased. Data available for Singapore and Malaysia shows how the share of print news consumption still made up 53% and 45% respectively in 2017 (Reuters Institute, 2021), but these figures nearly halved by 2021 (see table 7). COVID-19 and its associated government-imposed lockdowns and physical distancing measures played a crucial factor in the decline of print news across the region. In Malaysia, Blu Inc, a major magazine publishing group, closed in March 2020 (Ragavan, 2020). Vietnam News, a leading state-owned English-language daily, suspended its print edition and so did Malaya Business Insight and Manila Standard Today in the Philippines (Venzon, 2020).

Table 7: Sources of News Consumption in Southeast Asia 2021

Country	Print	TV	Online	Social Media
Indonesia	20%	58%	89%	64%
Malaysia	24%	55%	88%	72%
Philippines	16%	61%	87%	72%
Singapore	27%	47%	83%	57%
Thailand	15%	51%	91%	78%

(Reuters Institute, 2021)

Looking more specifically on the types of social media platforms that are popular among Southeast Asia countries, Facebook, Twitter and YouTube are the most used platforms.

Table 8: Top 3 Social Media Market Share (by Platform)

Ranking	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar
1	Facebook (53.3%)	Facebook (60.84%)	Facebook (64.22%)	Facebook (43.3%)	Facebook (82.3%)	Facebook (90.7%)
2	Twitter (19.4%)	Youtube (15.1%)	Youtube (26.55%)	Twitter (35.55%)	Youtube (4.7%)	Youtube (3%)
3	Youtube (9.1%)	Pinterest (8.9%)	Twitter (3.15%)	Youtube (10.12%)	Twitter (4.53%)	Twitter (2.76%)

Ranking	Philippines	Singapore	Thailand	Timor-Leste	Vietnam
1	Facebook (71.03%)	Facebook (58.84%)	Facebook (55.8%)	Facebook (97.9%)	Facebook (72.75%)
2	Youtube (19%)	Twitter (13.64%)	Twitter (10.81%)	Twitter (1.8%)	Twitter (9.84%)
3	Twitter (5.23%)	Pinterest (8.23%)	Pinterest (10.81%)	Instagram (0.02%)	Youtube (7.62%)

(Statcounter, 2021)

The usage of these three applications suggest a holistic use of online platforms where creation, consumption and sharing of content can happen under one platform and involves building real-life connections. This is a paradigm shift from early online platforms such as an internet blog, webboard, and web portal.

2b Rise and Evolution of Online Media

The internet spurred the birth and evolution of online media in Southeast Asia. The advent of public access to the internet in the mid 1990s, move from Web 1.0 to 2.0, the rise in the use of smartphones from 2010, and advances in mobile operating systems, led to four distinctive stages of development related to the evolution of online media in the region. To some extent, how online media developed in the respective countries also depended on the political openness and legal framework in each country.

Form of Media	Example
Online News Websites	Prachatai (Thailand) Malaysiakini (Malaysia) Apa Kabar (Indonesia) Rappler (Philippines)
Freelance/ Blogger Journalists	The Online Citizens (Singapore) Ba Sam (Vietnam)
Information Influencers	Somsak Jeamteerasakul (Thailand) Thant Myint-U (Myanmar) Anh Chi (Vietnam)
Third Party-funded News Services	Radio Free Asia Voice of America Democratic Voice of Burma

First, it was independent websites that started the snowball effect on online journalism. Depending on the level of political openness and vibrant civic space, this process differed country-to-country. In Thailand, an online webboard such as *pantip* (1997) and a web portal such as *sanook* (1998) were platforms where most of online discussion and information exchange took place, including circulation of news and debate on politics of the day. This then led to the formation of Prachatai in 2004, an independent online newspaper, by a group of academia, journalists, senators and CSO leaders. In Indonesia, it was an online mailing list *Apakabar* (1990) that became an online platform for public discussion on social issues, offering the views from the radical to the moderate, from pro-democracy activists to intelligence officers (Tedjabayu, 2010). In Malaysia in the 1990s, the media landscape was characterised by tight regulations imposing control over the media and government-affiliated news outlets. Frustrated with the practice of self-censorship and government regulations during his time at *The Sun*, Malaysian journalists Steven Gan founded *Malaysiakini* in 1999 to actualise his idea of an independent, uncensored news outlet.

Second, these online media have challenged the values and functions of traditional media and gave rise to freelance journalists who wrote for international or regional news outlets. In other words, by pushing the boundary and testing the limits, the media space was broadened. This also created a ripple effect of paving the way for the emergence of journalists bloggers who now could report independently on sensitive topics without editorial oversight. Due to its low cost and its user-friendly feature, blogging appeared to be an answer to those who practised citizen journalism in the countries where information is tightly controlled

such as Singapore and Vietnam. In Singapore, the dominance of pro-government mainstream media has partly led to the birth of alternative media such as *The Online Citizen* (2006), which operated as a community blogging platform, offering a more balanced reportage. In Vietnam, activists and concerned citizens used online blogs to provide critical reporting that the government would not allow to publish. One of the most famous bloggers was Nguyen Huu Vinh and his blog *Ba Sam* (2007). Some of the Vietnamese bloggers would face a state crackdown in 2010; Vinh himself was arrested in 2014. During this period, micro-journalism emerged. It is the use of short text messages via online microblogging services such as Twitter to report the event (Cohen, 2008). This would later become a new way of both information gathering and reporting among journalists.

Third, starting from the early 2010s, social media platforms started to make inroads into internet users in Southeast Asia. This would prove to be a watershed moment for online content creators. Some journalists saw the opportunity of what social media could bring to the table and leveraged upon it. In 2011, Maria Ressa and her colleagues, for example, launched a Facebook page Move.ph, before it transformed into an online news website *Rappler* as it is known today in 2012. Decentralisation of news reports intensified further and agency-based reporters or freelance journalists gave way to information influencers who, with expertise on the topic and technical skills, operate primarily on social media, especially Twitter. Examples include Somsak Jeamteerasakul on politics of Thailand, or Thant Myint-U on the issues related to Myanmar, and Anh Chi on human rights in Vietnam.

Fourth, apart from the evolution of independent online media mentioned above, another category that needs to be discussed is the digitalisation of government-funded news services. Major examples include the *Radio Free Asia*, *Voice of America*, and *Democratic Voice of Burma* (DVB). In this sphere, while it is seemingly independent, they receive funding from the United States or private, non profit organisations such as the National Endowment for Democracy. Partly, this is due to the nature of how they were established to begin with. Radio Free Asia and Voice of America were products of the Cold War as they were rolled out as part of the effort to provide independent, critical news reports to countries that had poor record of media freedom and freedom of expression, and to counter the narratives of authoritarian regimes. The DVB was established and run by the Burmese who live in exile in Norway and Thailand, aiming to provide uncensored news from and to Myanmar. Hence, in politically-closed countries such as Laos, Myanmar, Cambodia, and Vietnam, these outlets perform the functions of independent media, because free media do not exist inside the countries, or they have already been captured by the governments.

Given this evolution in online media, some conservatives or political elites have tried to imitate these new forms of 'news media' to varying degrees of success, or neutralise them through investment and change of ownership, which often lead to compromise of editorial independence. In Singapore, the competitor to *The Online Citizens* is *Mothership.sg*, which positions itself as an online community news service. It is alleged that the management of Mothership.sg is part of the inner circles of the ruling party. During 2017-2018, *Cambodia Daily* and *The Phnom Penh Post* were handed huge tax bills, an action many believed to be politically motivated. This led to a change of ownership of *The Phnom Penh Post*, by a Malaysian businessman who has close ties with Prime Minister Hun Sen.

2c Online Disinformation

With greater access and lower barriers for people to create and consume information online, the number of online users increases. Some users, however, use this opportunity to achieve financial gains through

misconducts that are based on falsehood, or exploitation of low digital and media literacy. Early examples of these types of online scams include an advance-fee chain email, or text message, phishing emails asking for personal, sensitive information in exchange for financial rewards. All these fall under the category of online disinformation.

Disinformation refers to information that is false and deliberately created to harm a person, social group, organisation or country (Ireton and Posetti, 2018). This differs from misinformation which is false information, but not created with intent to harm (Ibid.). In other words, the purveyors of misinformation are not aware of its falsehood. The aforementioned conceptualisation of disinformation and misinformation, while useful, is not crisp enough to understand the current phenomenon of online disinformation, especially when the action is done through social media using its virality. Building on the UNESCO's handbook definitions, Asia Centre in its report *Defending Freedom of Expression: Fake News Laws in East and Southeast Asia* identified four main types of disinformation (Asia Centre, 2021a).

Table 9: Disinformation Types

Click-bait Disinformation	False contents intended to create sensationalism to drive online traffic
Hate Speech Disinformation	Incitement to violence, hateful remarks to spur ethno-religious disharmony, or against vulnerable communities
Political Disinformation	Attacking, classifying, and manipulating opinion among parties competing for power and influence; especially during elections or demonstrations
Foreign Government Disinformation	Organised, subtle influence operations from abroad to gain political outcomes in the target country

(Asia Centre, 2021a)

First, while non-political by nature, *click-bait disinformation*, which focuses on creating sensationalism from dubious news stories to generate traffic on social media platforms, is profuse and overwhelms quality journalism. In 2019, a fake news article of *The Straits Times* surfaced on Facebook, reporting a local actor's decision to retire and shift his focus to online digital currency trading with profitable results (Menon, 2019). Mimicking the real news website, users who click on the fake webpage would be directed to pages riddled with clickbait posts and advertisements. A closer observation reveals that the fake article circulating on social media was a paid, sponsored Facebook advertisement.

Second, even before the COVID-19 pandemic, *hate speech disinformation* has created unprecedented online hate. This form often contains false and discriminatory contents related to ethnicity, gender, identity, race and religion. Foreign nationals, migrant workers, refugees, women and the LGBTI community often find themselves on the receiving end of hate speech based on fake news (Asia Centre, 2020). In December 2020, when COVID-19 clusters were formed out of migrant communities near Bangkok, hate speech based on fake news became viral on social media platforms. Unverified stories of Burmese migrant workers illegally crossed borders, travelled between provinces, or flouted lockdown measures were circulated and widely shared (Thepgumpanat, Naing and Tostevin, 2020; Komchadluek, 2020).

Third, one of the most noticeable types of disinformation is political disinformation used to attack, label and

manipulate opinion among groups contending for domestic influence and power. Often, this type of disinformation is disseminated during politically sensitive periods such as national elections or demonstrations by individuals or groups to gain political advantage over other contending parties. In November 2019, consolidating its power after the election a year prior, the incumbent regime of Cambodia People's Party (CPP) launched a disinformation campaign against Sem Rainsy, the leader of the dissolved Cambodia National Rescue Party (CNRP), ahead of his planned return to Cambodia. Revolving around mischaracterisation of Rainsy's statement, local authorities released thinly veiled 'forced confession' videos of CNRP supporters (Nachemson, 2019).

A fourth and emerging type is *foreign government disinformation* aimed at fomenting distrust or reputation damage on other governments, or manipulating internal conflict between competing factions within a target country, leveraging political outcomes. In September 2020, Facebook announced its decision to take down a Chinese disinformation network targeting the Philippines – one of the U.S. traditional allies in the region – and other Southeast Asian countries. This entailed removing 155 accounts, 11 Pages, 9 Groups and 6 Instagram accounts (Gleicher, 2020). This network, when targeting the Philippines, made use of fake local accounts to disseminate numerous fabricated contents on issues related to naval activity in the South China Sea, including US Navy ships. When the larger Southeast Asia nations were the focus, the network, using a mixture of Chinese, English and Filipino, spread current news related to China's interests in the South China Sea and contents supportive of President Duterte and his daughter's possible candidacy in the upcoming 2022 Presidential election (Ibid.).

The proliferation of these types of disinformation provided justification for governments in the region to use existing laws and propose new legislation to deal with such problems. Starting with the use of pre-internet laws to deal with issues of fake news, new legislations were later passed or updated to regulate digital content and their dissemination. The next chapter outlines the main legislation used to combat fake news in the region. We will see later in the report that these laws were used to silence critics and dissenting voices including the journalists.

3 Anti-Fake News Laws

This chapter identifies and reviews penal codes, anti-fake news legislations, computer-related and electronic devices laws, and COVID-19 temporary laws and emergency decrees in the region which have been used to curb disinformation, but also obstruct critical reporting by journalists and media organisations. Content critical of authorities is often framed as fake news, disinformation, or outright falsehoods. The rhetoric behind the invocation of these legislations is often based on controlling information that might purportedly harm national security, create public disorder and social and religious disharmony. Of particular interest are the specific clauses that pose a danger to media practitioners, which are highlighted in the graphics below.

3a Penal Code

In some Southeast Asian countries, provisions under the penal codes allow for criminalisation of the act of publishing and/or spreading misinformation. In most instances, these provisions are vaguely-worded and are not aligned with international human rights standards. As such, arbitrary interpretation of the law occurs and leads to persecutions of journalists.

In Cambodia, Articles 494 and 495 (incitement to commit felony) under the country's Penal Code were the main legal instruments of local authorities to address dissemination of misinformation. If found guilty, an offender would face a fine of up to US\$1,000 and imprisonment to the extent of two years. Originally, the concerned Articles do not penalise the act of spreading false information per se; rather they intend to prevent the incitement to commit a crime, although what constitutes 'incitement' is not clearly defined under the provision: *'the incitement is punishable when it is committed: (1) by speech of any kind, made in a public place or meeting; (2) by writing or picture of any kind, either displayed or distributed to the public; (3) by any audio-visual communication to the public'*. Given the ambiguity and vagueness, the provisions were overly-extended to include spreading misinformation.

In Laos, the Penal Code contains a vaguely-worded section that punishes spreading information authorities deem false. Under the Article 117 under the Penal Code (propaganda against the Lao People's Democratic Republic), a person can face an imprisonment up to 5 years and fines between US\$530 to US\$2,120 if they engage in *'conducting propaganda activities against and **slandering** the Lao People's Democratic Republic, or **distorting the guidelines** of the Party and policies of the Government, or circulating false rumours causing disorder ... for the purpose of **undermining** or weakening State authority'*.

What constitutes as 'slander'?

'Distorted' according to whom?
What 'undermines' the Government?

In Malaysia, Section 505(b) under the country's Penal Code penalises those who make, publish or circulate information *'with intent to cause, or which is **likely to cause**, fear or **alarm** to the public, or to any section of the public where by any person may be induced to commit an offence against the State'* with an unspecified fine amount and/or up to 2 year imprisonment.

How likely is 'likely'?

Would reporting news to the public cause 'alarm'?

In Myanmar, even before the 2021 military coup, Article 505 has been used to silence government critics such as journalists, activists and members of the public. Article 505 divides into two sub-sections, depending on the subject of the criticism: military personnel (a) and non-military public officials (b). Following the coup, the military junta amended Article 505(a) to include new provisions criminalising the act of persuading military personnel to join the civil disobedience movement (CDM) with 3-year imprisonment. This was in response to calls from the protesters trying to convince security personnel to join the movement. Meanwhile, it is a punishable offence under Article 505(b) for *'whoever makes, publishes or circulates any statement, rumour or report with intent to cause ... **fear or alarm** to the public'*. Those found guilty face imprisonment up to two years and/or a fine in an unspecified amount.

Would reporting news to the public cause 'alarm'?

In the Philippines, the authorities have used Article 154 under the Revised Penal Code to criminalise those who *'by means of printing, lithography, or any other means of publication shall publish ... any false news which may **endanger the public order**, or cause damage to the interest or **credit of the State**'*. In 2017, the government passed the Republic Act (RA) 10951 to expand the penalties to the maximum fine of US\$3,900 and/or imprisonment of up to six months.

What is the 'public order'?
What 'endangers' it?

What is the difference between 'credit of the State' and 'national security' or 'public order'?

In Vietnam, Article 117 (propaganda against the state) under the country's Penal Code (2015) is the most used legal measure to address dissentive views or even online critical comments, including those of independent media outlets and blogger journalists. When pressing charge, as the provisions under Article 117 are vaguely-worded, authorities interpreted independent media as *'any person, for the purpose of **opposing the State** of Socialist Republic of Vietnam, commits any of the following acts shall face a penalty of 5-12 years' imprisonment: a) making, storing, spreading information, materials, items whose that contains **distorted information about the people's government**'*.

What constitutes 'opposing the State'?

'Distorted' according to whom?
What is and is not 'about' the Government?

3b Fake News Law

Starting from 2017, public debate on a specific, new legislation against fake news or disinformation gained traction in Southeast Asia, after Singapore revealed its intention to come up with a new law. This idea resonated with other governments, who expressed similar intentions including Cambodia (2018), Malaysia (2018), Philippines (2017). Although Malaysia's UMNO led government passed the Anti-Fake News Act in March 2018, the law was repealed by the Pakatan Harapan government came into power in May 2018.

In 2019, Singapore passed the Protection from Online Falsehoods and Manipulation Act (POFMA) to counter online falsehood. Under the POFMA, government ministers decide whether to take action against a piece of information suspected to be false, and can order the content to be taken down or ask for correction orders to be put alongside them. Under the law, it is stated that a person must not communicate *'a false statement of fact and the communication of the statement that is likely to be **prejudicial to the security** of Singapore ... **diminish public confidence in the performance** of any duty or function of, or in the exercise*

What is the meaning of 'security'?
How can one be 'prejudicial' to it?

Would critical reporting amount to 'diminishing confidence'?

of any power by, the government'. Those who fail to comply will face a maximum fine of US\$37,000 and/or five years imprisonment. In the event that the perpetrator used a 'bot' to spread false statements, a maximum fine and imprisonment increase to US\$73,000 and ten years respectively.

Amid the COVID-19 pandemic, in February 2021, Vietnam has introduced Decree No. 15/2020/ND-CP, a new legislation aiming at punishing those who spread disinformation with a fine. Per Article 101 under the law, an administrative fine up to \$US860 will be imposed upon online users who *'post or share fake or false information with the aims to distort, slander or damage the **prestige, honor and dignity** of other organizations, authorities or individuals'* on social media platforms. The law is overly-broad, as under the same article, it also punishes posting or sharing inaccurate maps of Vietnam (g), or links to websites with banned content (h).

Does reporting the truth damage 'prestige, honor, dignity'?



To date, only Singapore and Vietnam have passed specific legislation aimed at addressing disinformation. Cambodia expressed its intention to introduce anti-fake news legislation in 2018, but there has been no further update since; while the Philippines saw at least 3 draft laws being submitted to the Congress that have yet to be passed.

3c Electronic, Multimedia and Computer Usage Law

Some countries in the region – especially those who already have legislation that regulate online information creation or consumption, or the usage of electronic devices – introduced vaguely-worded provisions under the existing internet-related, or online transaction laws. They took this route in order to avoid possible public resistance, if they proposed specific fake news laws.

Since its introduction (2008) and amendment (2016), for more than a decade, Indonesia's Electronic Information and Transaction Law (UU ITE) has been the face of internet governance in the country. Originally intended to fill the legal gap around issues such as electronic transactions, digital signatures and information, due to the inclusion of vaguely-defined provision on immorality, defamation, and hate speech under Article 27 and 28. It is stated that *'any person who knowingly and **without authority** distributes and/or transmits and/or causes to be accessible Electronic Information and/or Electronic Documents with contents of affronts and/or defamation ... or information aimed at inflicting hatred or dissension on individuals and/or certain groups of community based on ethnic groups, religions, races'*. If sentenced, a wrongdoer faces a maximum fine of US\$52,000 and/or imprisonment of a maximum four years.



Is there an 'authority' to distribute hateful contents online?

In Malaysia, the Communication and Multimedia Act (CMA) was promulgated in 1998 as a response to the rising use of the internet and to establish a regime of industry self-regulation, supported by fallback regulatory standards (Consumer Forum of Malaysia, 2021). However, some provisions under the law are vaguely defined leaving the room for potential abuse. Particularly, Section 233 under the law provides for a criminalisation of those who misuse *'network facilities or network*

What are the parameters?



service or applications to create any comment or other communication which is obscene, indecent, false, menacing or offensive ... with intent to **annoy**, abuse, threaten or harass another person'. If found guilty, a person faces a fine up to \$US12,000 or an imprisonment up to 1-year, or both. The CMA is the main legal instrument used to penalise fake news, before the introduction of the Anti-Fake News Act in 2018 and after its repeal in 2019.

In Myanmar, following the 2021 coup, Section 77 of the Telecommunications Law became the military junta's main legal instrument to impose a combination of internet shutdowns and curfews, blocking access to social media platforms and disabling mobile data throughout the country, preventing information to be shared among protesters and news coverage to be broadcast within and without the country. Section 77 states that *'the ministry may, when an emergency situation arises to operate for public interest, direct the licensee to suspend a telecommunications service, to intercept, not to operate any specific form of communication, to obtain necessary information and communications and to temporarily control the Telecommunications Service and Telecommunications Equipment'*. Internet Service Providers (ISP) that do not follow government instruction under the Section 77 face the revocation of their operating licences. The use of Section 77 marked an addition to the criminalisation of individual online users with directives that compelled telecommunication companies to shut down internet services.

How likely is 'likely'?

What is 'damage' to the public, security?



Thailand's Computer Crime Act (CCA) is the legal measure authorities use to police online public discussion and information sharing, including those of journalism and criticism directed at public office holders. Section 14 under the CCA criminalises those who *'dishonestly or by deception, entering wholly or partially distorted or false computer data into a computer system in a manner **likely to cause damage** to the general public ... or false computer data which is likely to cause damage to the protection of national security, public safety, economic safety of the Kingdom of Thailand, infrastructures which are for public benefit; or to cause panic to the general public'*. In other words, CCA targets those who spread disinformation that is likely to prompt public mischief, or damage national security and public order will face a fine up to US\$3,200 and/or up to five year imprisonment. Also, under Section 15 of the law, this punishment extends to the ISPs if *'cooperates, consents or acquiesces to the perpetration of an offense under Section 14'*.

Even though these laws are not specifically legislated for dealing with fake news, they are nevertheless actively evoked to persecute fake news 'offenders'.

3d COVID-19 Temporary and Emergency Laws

Since the coronavirus became a global pandemic in March 2020, governments had declared a state of emergency, or enacted COVID-19 temporary laws. Within these laws, there were provisions that criminalised any act of spreading disinformation or false information that could harm public order, national security and social harmony. Most, if not all, of these stipulations are left vague and leave the interpretation to authorities.

Although Cambodia did not officially declare a state of emergency, it however passed the Law on the Management of the Nation in a State of Emergency in April 2020 despite concerns voiced by both domestic and international human rights groups. Article 5 under the law gives extensive powers to the government such as restricting or prohibiting movement, free speech, surveilling communication, and monitoring and controlling social media (CCHR, 2020). Specifically, Article 5(10) and Article 5(11) allows authorities to track information received via all communications networks by all means and ban the distribution of information that might provoke public fear or unrest (Heng, 2020). This is stated as follows: when the country declares the state of emergency, the government has the right to 'set out a measure to watch and observe **by any means** to receive information via all telecommunication systems in order to meet the state of emergency; ban or restrict news sharing or media which is able to cause people panic or chaos or bring damage to the national security or make confusion about the situation of the state of emergency'. Failure to comply with measures under Article 5 will subject a person to a fine of a minimum of US\$245 and a maximum of US\$1229 and an up to 1-year imprisonment as stipulated under Article 8.



Are there limits to these 'means'?

In January 2021, a nationwide state of emergency was declared in Malaysia to tackle the spread of COVID-19. By using powers conferred in the emergency proclamation, the government enacted the Emergency (Essential Powers) (No.2) Ordinance in March 2021. Although it was repealed in October 2021, the decree criminalised the act of creating, offering, publishing fake news or publication that contains fake news. Under Article 2, fake news is defined as '*any news, information, data or reports, which is or are **wholly or partly false** relating to COVID-19 or the proclamation of emergency, whether in the forms of features, visuals or audio recordings or in any other form capable of suggesting words or ideas*'. Article 4 stipulates that those who are found guilty face a fine of not exceeding US\$239 or a term of imprisonment up to three years or both. Also, the Court can order the convicted person to make an apology to the person affected by the offence. Failing to comply with this order is subject to a fine not exceeding US\$12,000 or imprisonment for a term of up to six years or both.

In March 2020, Thailand declared a country-wide emergency to combat the COVID-19 outbreak. Section 9(3) of Emergency Decree on Public Administration in Emergency Situations (2005) authorises the Prime Minister of Thailand to create regulations that can prohibit '*any news reporting, distribution or dissemination of books, printed matters or other media containing any account that **may create fear** among the people or that are intended to spread inaccurate news/information*' with a negative impact on state security, peace and order or public morality. Violation of any regulation under this section as well as others is subject to imprisonment for a term up to two years or a fine of up to US\$1,283 or both.



Would news reporting be suspended?

On 29 July 2021, in line with Section 9(3), Regulation No. 29 was adopted. It prohibits the publishing, distribution, or dissemination of texts that may incite panic or are designed to distort information to deceive comprehension of the emergency situation to the extent that it affects the state's security, public order, or people's good morals. It also provides government authorities new enforcement powers, allowing them to further restrict online expression and monitor internet users (Bangkok Post, 2021). Individuals found guilty of violating the Regulation by disseminating such material face up to two years in jail or a fine of up to US\$1,283, or both.

In March 2020, the Philippines passed the Bayanihan to Heal as One Act, also known as Republic Act No. 11469 which gave the president extensive emergency powers and further restricted online expression (Freedom House, 2020c). According to the act, Section 6(f) criminalises '*individuals or groups creating, perpetrating, or spreading false information regarding the COVID-19 crisis on social media and other platforms, such information having **no valid or beneficial effect** on the population and are **clearly geared** to promote chaos, panic, anarchy, fear or confusion*' with an up to 2 month imprisonment or a fine up to US\$20,000 (Republic Act No. 11469, 2020). In May 2020, a petition questioning the constitutionality of the law was filed to the Supreme Court but it was dismissed by the court. After expiring in June 2020, the law was replaced by Republic Act 11494, the Bayanihan to Recover as One Act. Although this law extended the president's special powers in handling the spread of the virus, it did not renew the provisions that penalised the spread of the false information.

'Beneficial' according to whom?

What does 'clearly geared' mean?
Is it the same as intent?

Emergency and COVID-19 temporary laws, hence provided an additional opportunity to introduce and use legal provisions against acts of fake news dissemination.

This chapter has shown that countries in the region use a mixture of existing pre-internet era laws, amend existing laws, pass new laws or use emergency decrees and temporary COVID-19 legislation to prosecute fake news perpetrators. In the pre-internet era, countries in the region have made use of penal codes to deal with disinformation. By the mid-2000s, with the rise of internet usage, some countries have come up with new laws to regulate online activities, which included the act of transmitting messages, statements, or other online communications. Thereafter amendments to existing legislation or specific legislation was passed to respond to disinformation. The key defining features of these laws are their ambiguity and non-alignment with international standards (which predates the internet era), leaving room for abuse of power. In the next chapter, the impact of these legal measures will be discussed.

4 Impact on Media Freedom

This chapter identifies the impact of vaguely-word provisions under the penal code, electronic and computer-related legislation, and COVID-19 Temporary laws have had on media freedom and quality journalism. The chapter will show that the effects are intertwined and negatively reinforce one another. Overall, the criminalisation of journalists, shutting down and attacks on media outlets and associations create a chilling effect and give rise to the practice of self-censorship.

4a Persecution of Journalists

The persecution of journalists takes place when public office holders and officials claim that criticism directed at them is illegal or false. Legitimate criticism in the region can be seen as a misnomer. Hence court cases are filed against online critics and journalists, either by political office holders, government officials, or their supporters, on the ground of spreading fake news, or information that disturbs public order and national security.



In 2020, an unexpected change of government occurred in March and reverted Malaysia back to the old political regime, where the UMNO and its affiliates dominate national politics. In May 2020, *South China Morning Post* journalist Tashny Sukumaran was questioned under the CMA over her critical reporting of the mass arrests of migrant workers and refugees in Kuala Lumpur's quarantine zones (Article19, 2020). In June 2020, Independent blogger Dian Abdullah – who criticised the King's decision to appoint Muhyiddin Yassin as new Prime Minister and the latter's mismanagement of COVID-19 pandemic – was charged under Section 233 of the CMA. The charges brought against her stemmed from the critical blog post she made in March.

Since the military coup in February 2021, as of 15 November 2021, 107 journalists and media workers have been arrested; with 37 of whom still under police detentions (Reporting ASEAN, 2021). The coup has spelled the death of journalism in Myanmar as crackdowns on reporters and media workers continues unabated. Most were arrested for allegedly spreading fake news and encouraging security forces to desertion under the amended Article 505(a) of the Penal Code (The Wire, 2021). Excessive force was used when making arrests, including commando-style raids (CPJ, 2021). Foreign journalists were not exempted from the state crackdown on media; they were charged and sentenced, before being deported due to diplomatic reasons. Notable examples include US journalist Danny Fenster of *Frontier Myanmar* and Japanese freelance journalist Yuki Kitazumi.

In Indonesia, in March 2020, chief editor of *Liputanpersada.com* Mohamad Sadli Saleh was sentenced to 2-year imprisonment over a news article he published a year earlier on alleged corruption connected to a road construction in Central Buton district, South East Sulawesi. In July 2019, the head of the local district reported Saleh to the police accusing him of violating the ITE Law. This was followed by a police charge which alleged Saleh's report to be defamatory and that it might incite hatred (Kompas, 2020). In May 2020, Indonesian journalist Farid Gabban was sued and charged for defamation under article 28 of the ITE Law. The charge stemmed from his tweet criticising Teten Masduki, the Indonesian Minister of Cooperatives and Small and Medium Enterprises, who provided financial support for a commercial enterprise during the COVID-19 pandemic (IFJ, 2020a).

In Singapore, in May 2020, POFMA Office issued its first correction orders to Thum Ping Tjin, founder and managing director of the alternative media *New Naratif*, over his video on the outlet's YouTube Channel, in which he explained the gist of POFMA and used it as a metaphor to show how laws are 'created and abused in Singapore', asserting that the Act has rendered all criticisms of government illegal (Thum, 2020). Apart from Thum, freelance journalist Kirsten Han has faced online trolling, harassment and accusations from the government for being a foreign agent due to her journalistic works. In particular, she faced one-sided tirades or accusations from a senior minister during parliamentary sessions when asked to provide input on the draft laws to combat online falsehood and foreign interference.

In the Philippines, in April 2020, Latigo News TV journalist Maria Batuigas and Amor Virata, a vlogger and an online news reporter, were charged for violating the 'Bayanihan to Heal as One Act'. The two journalists were the first to be charged under Section 6 of the law for allegedly spreading false information concerning the COVID-19 which caused panic to the public (CPJ, 2020a). While legal charges are sporadically brought against journalists in the Philippines, the more pressing concerns should be on the killings of journalists which often go unnoticed and unpunished. In October 2021, *Newsline Philippines* reporter Orlando Dinoy was shot dead in Mindanao. Orlando was the 21st journalist who was killed since President Duterte took office in 2016, making the Philippines one of the most dangerous places for reporters (IFJ, 2021). In 2016, President Duterte marked the beginning of his presidency by proclaiming that journalists are corrupted and deserve to die (Lewis, 2016).

These persecutions, or threats to take action, against journalists have, overall, affected the impact of investigative journalism. This is particularly true when the exposé often does not result in concrete steps against, for example, public officials, or the court system takes too long, but the repercussions against journalists are swift. In other words, the disabling media environment, when combined with the impunity of the elites and authorities, encourages self-censorship.

4b Attacks Against Female Journalists

Persecution of journalists often goes beyond individual journalists or content creators and extends to action against the media organisations they work at or belong to. These actions are often in the form of temporary suspension or revocation of operating licences of the media organisations. These actions could also be targeted such as limiting the airing time of specific critical content, or permanent when the outlets were forced to deregister.



These types of violence especially increase concerns and silences women journalists who criticise Governments of their respective countries. They are in more danger of facing persecution by State authorities. After the coup in Myanmar, many women journalists and activists were abducted by and now are in custody of the military (Coalition for Women in Journalism, 2021a). Since then, cases of rape being used by the military as a weapon to torment women have been reported, silencing once out-spoken critics (Coalition for Women in Journalism, 2021b). In Vietnam, Pham Doan Trang, a female journalist, was charged and jailed on the count of producing propagandising information against the Vietnam state under Article 117 of the Penal Code. She had continuously been facing charges and violence by Vietnamese police over her work, spanning issues of civic participation, LGBTQI+ rights, and the State's use of violence

(Frontline Defenders, 2021; Bangkok Post, 2021b).

Another case is that of Frenchie Mae Cumpio, a critic of the Philippines President, Duterte, who had been facing threats for three months before her organisation's staff house was raided by the military claiming that the house was an 'identified Communist Terrorist Group safe house' and that they were in possession of firearms (Lorraine, 2021).

In Thailand, Kamonthip Aungsakularporn, a reporter for Tokyo Shimbun was barred from the government house from future press briefings, with the government spokesperson citing that she had been spreading misinformation. This transpired after the Prime Minister had criticised the way she sat before him during his briefings (UCA News, 2021).

The shift to digital media platforms has also added manifestations of threats and harassments in online forms. For female journalists, these had been in forms of sudden or long-term, individual or coordinated, threats to reputation, digital security attacks, harassing private messages and threats of sexual and physical violence (Posetti et al., 2021). A survey conducted by UNESCO shows that globally, of the female journalists respondents, 73% have experienced online harassment; with one-fifth further experiencing offline abuse associated with such online attacks (Ibid.).

Although online harassment campaigns are not necessarily or directly conducted by State officials, journalists working to criticise the ruling government nevertheless see online attacks as a result of government-backed or majority-backed narratives.

A case in point is in the Philippines, where Maria Ressa, the 2021 Nobel Peace Prize laureate and the founder of Philippines news site 'Rappler', faced sustained online abuses and threats, for critical reporting of the Philippines Government, especially during the current Duterte regime. Among the texts, images, and videos personally attacking her character, 34% have been characterised as either misogynistic, sexist, or are explicit (International Center for Female Journalists, 2021). Such attacks have been enabled by the Philippines government, as online comments are fueled by President Duterte's public denouncements of Ressa and the Rappler.

In Indonesia, Febriana Firdaus, another journalist at Rappler, while conducting an interview on-site about the protests aimed at inciting the Indonesian government efforts to acknowledge the country's 1965 anti-communist massacre, was harassed and threatened by a mass rally of Islamic hardliners, supporters of the Islamic Defenders Front. The attacked then moved online, with the mass labelling her a 'fake islamist', a 'communist supporter' and a 'LGBT lover' (International Press Institute, 2016).

Similarly, Vicheika Kann was accused by Cambodia's Prime Minister Hun Sen of working for the US because she was, allegedly, told by 'someone in Washington' to ask questions on the state of the country's emergency draft law. After the interaction, she said, insults by supporters of the government were thrown at her social media accounts. Bots and fake accounts posted hateful comments on a regular basis (Vicheika, 2020).

The forms of gender-based violence, whether offline or online, has done much to limit women journalists from their role as watchdogs of the society, especially on their role of offering their perspectives on ongoing situations in their respective countries. More concerning is that these types of violence were either done by or done with the tacit consent of State authorities in order to silence critics.

4c Shutdown of Media Outlets

Persecution of journalists often goes beyond individual journalists or content creators and extends to action against the media organisations they work at or belong to. These actions are often in the form of temporary suspension or revocation of operating licences of the media organisations. These actions could also be targeted such as limiting the airing time of specific critical content, or permanent when the outlets were forced to deregister.



Immediately after the military coup in Myanmar, the military-appointed Minister of Information issued a public warning that some media outlets 'were spreading false rumours and statements which can cause unrest'. On 9 March 2021, the military moved from issuing public warnings to closing news outlets, ordering five independent media organisations to shut down (*7 Day News*, *Democratic Voice of Burma*, *Khit Thit News*, *Mizzima* and *Myanmar Now*). Under the order, media organisations would be deemed to be breaking the law if they continued to '*publish or broadcast articles, programmes or reports or transmit messages via social media*' (RSF, 2021b). On the same date, *Myanmar Now*'s office also suffered a raid from the authorities, who forced their way into the building, seizing documents and office materials. By 18 March 2021, Myanmar had become a nation without independent media as *The Standard Time* announced its decision to cease operations due to communications and logistical challenges following the coup (VOA News, 2021b).

When its 25-year franchise expired in May 2020, the Philippine's largest broadcast network ABS-CBN was forced to close down, after the legislature voted to reject the licence renewal. The country's largest news organisation has been under verbal attacks from President Duterte for its critical coverage of his war on drugs campaign. Besides, the government has accused ABS-CBN of 'illegally operating a cable channel and leveraging its corporate status letting foreign investors to own part of the firm', though ABS-CBN denied the allegations (Gutierrez, 2020). It was no surprise that the House of Representatives, dominated by the President's allies, eventually voted 70-11 to take the network off the air (Gomez, 2020). Actions against ABS-CBN should not be viewed as an isolated incident, however. Another online media outlet *Rappler* critical of President Duterte experienced the same repercussions. In January 2018, the Securities and Exchange Commission of the Philippines (SEC) revoked *Rappler*'s licence to operate citing it violated constitutional ban on foreign ownership. In March 2018, *Rappler* was slapped with criminal and tax evasion charges, claiming the outlet deliberately failed to pay approximately US\$2,640,000 (P133 million) in taxes (Canlas and TMT, 2018).

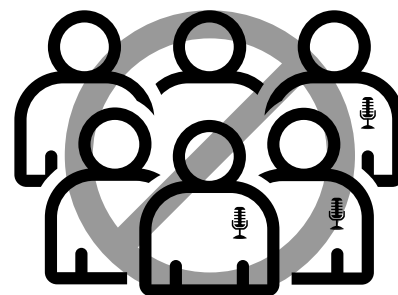
In September 2021, Singapore's news blog *The Online Citizen* (TOC) closed down after the Infocomm Media Development Authority (IMDA) suspended its licence due to alleged repeated refusal to declare all of their sources of funding since 2019. IMDA has based their actions on the alleged threat of foreign interference in domestic politics in Singapore, citing examples from the 1970s. In response, TOC stated that it has not complied with IMDA's requirement due to 'IMDA's unjustified attempt to scrutinise how TOC conducts its business' (Chevi, 2021). It is noteworthy that, in the same month, TOC's chief editor Terry Xu was sentenced to pay \$155,994 in damages to Prime Minister Lee Hsien Loong over an article published in 2019 concerning the Prime Minister's disputes with his siblings over their family home at 38 Oxley Road (Lum, 2021).

In Thailand, during the height of the student-led protest in October 2020, *Voice TV*, a prominent liberal media outlet which has been critical of the government, faced a suspension of its operating licence due to its coverage of the anti-government demonstrations. Justifying the action, the Minister of Digital Economy and Society claimed that Voice TV had violated the State of Emergency Decree and the Computer Crime Act by spreading false news (IFJ, 2020b). Apart from Voice TV, three other news outlets, Prachatai, The Reporters and The Standard, were also investigated under the same accusations. While the suspension order was cancelled, this was the fourth time Voice TV has faced a temporary shutdown due to their critical report. In August 2021, the Civil Court invalidated the Regulation No. 29 that would give the authority to the Prime Minister to suspend internet service; however the Court's decision only came after an uphill legal battle put forward by an alliance of 12 media companies and a group of human rights lawyers.

Actions taken against media outlets by government officials are often systematic and designed to uproot the sources of dissenting opinions and criticism. By closing down critical media outlets, governments in the regions could then overwhelm the media landscape with pro-government media organisations, which range from public information departments, to mainstream and alternative outlets.

4d Attack on Journalists Associations

Attack on journalist associations represents a strategy to target the collective voices of journalists and the industry. Especially, towards dismantling their solidarity, their calls for observing international media standards and their concerns about the safety of journalists. Often, the focus is aimed at challenging journalism's ethical standards and code of conduct, which will then determine what is allowed to be reported.



In Indonesia, one example was around calls by journalists associations to ensure the ability of the press to report on the Islamic Defenders Front's (FPI) intolerant and unlawful acts (Nasution, 2020). On 31 December 2020, Indonesian police imposed a ban on the hardline Islamic Defenders Front (FPI) on the grounds of preserving public order and national ideology, effectively banning all its activity, symbols and attributes. The announcement also included a reference to the restriction of access, uploading and spreading of content on FPI's websites and social media platforms. As the organisation – notoriously known for its illegal, unilateral raids trying to enforce Islamic fundamentalism limiting activities of religious minorities – continues to exist, the restriction prompted concerns among the numerous journalists organisations.

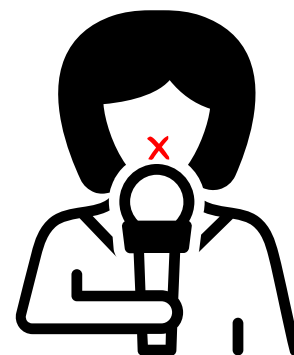
In the Philippines, the National Union of Journalists of the Philippines (NUJP) has been alleged by state officials to have links with the Communist Party of the Philippines (CPP). This practice – locally known as red-tagging – has dangerous implications as those affiliated with the NUJP were often included in the lists of targeted individuals both from the state and vigilante groups, exposing them to further risks. In February 2019, former NUJP director Leonardo Corrales and his family members were included in the anonymous list naming alleged members of CPP (IFJ, 2019). In December 2020, journalist Lady Ann Salem, communication officer for the International Association of Women in Radio and Television, and a member of the NUJP was arrested as part of the crackdown on firearms and criminal gangs. Although the case against Salem was dismissed in February in 2021, the police action was widely condemned due to the alleged planting of weapons during her arrest (CPJ, 2020b).

In Vietnam, during the period leading to the 2021 National Congress of the Vietnamese Communist Party, the government's crackdown on the Independent Journalists Association of Vietnam (IJAVN) began. By the end of 2020, all leading members of the IJAVN such as Pham Chi Dung (president), Nguyen Tuong Thuy (vice-president), Le Huu Minh Tuan (editor) were arrested under Article 117 (propaganda against the state) of the country's Penal Code. In January 2021, the trio were sentenced to more than 10-year imprisonment. Clamping down on IJAVN is part of the larger effort of authorities to control dissent and preserve its reputational image during the transitional period of its Communist Party leadership.

Governments in the region have been known for trying to exert influence over the journalist associations. The move is strategic as it denies the legitimacy of alternative media outlets and online content curators to conduct their report, while it can maintain control over traditional journalists and news outlets. When challenged, the government could then point to ethical standards and place blame on the journalists or outlets for not reporting on facts.

4e Self-Censorship by Journalists and Media Organisations

It is important to note that the use of legal measures and public rebukes against journalists and media organisations has created a chilling effect on freedom of expression and media freedom. In other words, journalists and media organisations censor themselves or refrain from reporting on sensitive issues to avoid repercussions from the authorities, or to maintain good relationships with the public figures in order to gain access to possible sources of information.



Series of arrests and the use of incitement law (Article 494 and 495 of the Penal Code) against journalists served as warning to other reporters to not engage in critical reportage. Some of them refrain from writing opinion pieces or publishing sensitive stories critical of the government, which can result in lawsuits against them (Narin, 2020; Sochan, 2020). In 2021, when the Cambodian Journalists Alliance Association (CamboJA) and dozens of NGOs expressed concerns over the issue of self-censorship on the occasion of World Press Freedom Day, spokesperson of the Ministry of Information dismissed the accusation, stating that Cambodia has '*no restrictions on press freedoms or journalists ... and that the NGOs failed to check the facts of the law in each case*' (RFA, 2021).

In Thailand, since the military coup in 2014, self-censorship is an unwritten rule of mainstream media in the country. Issues related to monarchy are considered taboo, while sensitive topics such as political scandals, environmental damages, or criticism of the government's policies, were sidelined by sensational journalism to drive viewership. In 2020, it is noticeable that mainstream media refrain from reporting the youth-led political protests or government's excessive actions against protestors; only online independent media outlets provide up-to-date, factual reportage. In 2021, self-censorship by mainstream media was observed again, when the injunction against Prime Minister's Regulation No. 29 was put forward to the Civil Court as all of the petitioners were alternative online media outlets.

As a communist state, self-censorship in Laos stems from the fact that all news outlets are under government control and state officials direct the journalists what stories should be published and how it should be curated. So, journalists in Laos report stories supporting government policies and validating official views. In other words, they carefully refrain from picking up controversial socio-political issues that may clash with the authorities (RFA, 2020a). Due to the censorship regime, most local audiences do not watch the country's state-controlled media, but turn to Thai broadcasts to keep them up-to-date as both languages are mutually intelligible and Thai TV channels are more timely in their reporting (RFA, 2020b).

In Singapore, unequal access and self-censorship defines its media landscape. *Singapore Press Holdings Limited and Mediacorp* enjoy first-mover advantage when it comes to media access and are given priority for major press releases, speeches and event invitations (Young, 2019). There were many alleged occasions that mainstream media in Singapore censor themselves from reporting stories that otherwise would lead to public curiosity or reputation damage of the ruling party leadership. Recent examples include: same sex marriage of Li Huanwu, Prime Minister Lee Hsien Loong's nephew (2019), and the slow response of mainstream media to report on diplomatic row between Singapore and Cambodia and Vietnam, prompted by Lee Hsien Loong's remarks noting the 1978 invasion and subsequent occupation of Cambodia (2019).

The practice of self-censorship among journalists in Southeast Asia is the calculated response to – and an end result of – the combination of persecutions of journalists, closure of critical news outlets, and attack on journalist associations. This disabling environment has discouraged media workers from performing quality journalism as it entails costs, both in terms of career and personal life.

4f Decline of Quality Journalism

Supported by the proliferation of smartphones and increased internet penetration, the digitisation of information has largely moved news consumption to social media platforms. This shift, however, also includes advertisers. Traditionally, media outlets have relied on advertisement as their major source of income. Dwindling advertisement revenues mean, in order to survive, these outlets are forced to look at non-revenue sources such as investments from government aligned businesses or direct financing from governments, which may affect the quality of journalists and the impartiality of media outlets. Meanwhile, bordering on disinformation, some media organisations shift their focus to sensational reporting, or news that 'hits big' and celebrity coverage, which creates more attention and revenue (Sweeny, 2020).



In Indonesia, sometimes, online news outlets do not fact-check stories before reporting or publishing the news. In other words, information that is popular or trending on social media is taken up by journalists and proceeds into news without proper editorial control. In 2018, during the election period, *Detik.com* and *Tribunnews.com* took up the social media hype over the alleged assault against Ratna Sarumpaet, which was later turned out to be online disinformation staged by herself (Sundari and Salamah, 2019). Ratna was a supporter and a campaign team member of Gen. Prabowo Subianto, a major candidate who contested against the incumbent President Joko Widodo.

This incident of social media users exerting influence over news reporting, or being part of content curation was not unique in Indonesia, but also elsewhere in the region. In Malaysia, in October 2021, an award-winning whiskey *Timah* was put under spotlight and became a debate in the parliament over the use of the name, which supposedly could be alluded to Muslim women. Part of the uproar on social media intensified, when a statement by an MP was taken out of context and the media reported her opinion as if drinking the whiskey is akin to drinking a person (Azlee, 2021). It is noteworthy that the tumult over Timah – and its subsequent politicisation – started out as a social media trolling, when a Twitter user discovered the whiskey, which has been around for a few years already, and made a post, allegedly without malign intent (Harith, 2021).

In Thailand, in 2017, a major change in quality journalism occurred, when a transfer of ownership of *The Nation* was finalised after years of ailing business sustainability. The change saw the introduction of a new management team, which included key members of the People's Democratic Reform Committee (PDRC), an ultranationalist political pressure group that precipitated a military coup in 2014 (MGR Online, 2017; Prachachart, 2021). The major shareholder *News Network Corporation* has also faced allegations of collusion with the government as the spouse of firm owner Watanya Wongopasi would later become party-listed MP of Palang Pracharath Party, the ruling party since 2019 (BBC Thai, 2020). From 2017 to 2020, *The Nation* had transformed into a pro-military regime, pro-government mouthpiece that spread political disinformation against government critics, activists and opposition members. Its role in airing hate speech and false content against the youth-led pro-democracy movements in 2020 was of particular note.

In addition to the shift towards social media as the main platforms for information creation and consumption, media freedom in Southeast Asia have been affected by government crackdowns on dissenting voices, where journalists and media organisations find themselves implicated. To survive, they resort to self-censorship or consider corporate buyouts from big businesses that have close ties with certain political pressure groups, or even governments. Such developments inevitably lead to a degradation of quality journalism. As journalists and the media perform a watchdog role and ensure accountability in a society, efforts must be undertaken by stakeholders to ensure quality journalism is upheld as part of ensuring media freedom.

5 Recommendations

The internet has fundamentally altered the media landscape, which brings in a new set of challenges. Laws enacted to address disinformation have been open to political abuse by governments. While repealing or amending restrictive legislation is important, equally important is the development and promotion of quality journalism. Strengthening credible voices and verified information can go a long way to ensuring media freedom and preventing abuse by governments seeking to restrict political participation and criticism. In this regard, international organisations, governments, journalists and media organisations and technology companies have an important role to play. The recommendations in this section are aimed at encouraging stakeholders to take necessary steps to ensure that media freedom is respected and quality journalism remains relevant.



International Organisation

- The UN should urge member States to implement recommendations made during the UPR and by Special Rapporteurs to repeal or amend restrictive laws that impact media freedom.
- The UN should prioritise SDG16.10.1 when engaging with member States to promote and protect media freedom, as the protection of journalists, especially female journalists, is an integral part of the indicator.
- The UN and INGOs should provide financial support and technical assistance to online media initiatives to strengthen the quality of their content by using verified information and pay attention to ethical practises.
- Global and regional press indicators and indexes should be expanded to incorporate internet freedom and as most news outlets and media organisations have moved their content to online platforms.

Governments

- Sign and ratify international human rights treaties such as ICCPR that safeguards media freedom and be diligent in its reporting obligations to the treaty bodies.
- Revise and repeal vaguely-worded provisions under countries's penal codes, electronic and computer-related laws to avoid criminalisation of journalists.
- Refrain from creating a climate of fear and self-censorship by using strong rhetoric or public rebuke against journalists (especially female journalists) and media organisations.
- Support the establishment of independent press councils and/or media ethics committees and provide resources to enable them to train journalists and other content providers to strengthen quality journalism.

Technology Companies

- Maintain independence from public officials and governments through their policies and ownership
- Resist the governments' requests to take down online content, if such action leads to infringement of freedom of expression and media freedom.
- Renew the commitment to their community standards: they have the responsibility to ensure that they amplify credible voices, not only those that are the most popular.
- Be proactive in combating disinformation on their platforms, by flagging false, hateful content including those propagated by public figures or political incumbents, and take further action to suspend their accounts, if necessary.
- Promote and support digital media literacy and work with the support of other stakeholders including government, media organisations and international organisations.

Journalist Associations

- Consider setting up transparent, inclusive self-regulatory regimes and internal ethical standards to be practiced by journalists to ensure quality journalism.
- Take lead in fact-checking initiatives or mechanisms and collaborate with international independent fact-checking networks.
- Provide digital and media literacy training programmes for online content creators to prevent sensational reporting and dissemination of false or unethical content.
- Actively monitor the situation of media freedom in their respective countries and submit reports to the UN, INGOs and their governments to advocate for improvements as needed.

Journalists, Content Curators and Media Organisations

- Be diligent and adhere to professional and ethical standards when conducting research, interview and news reporting.
- Refrain from prioritising sensationalism over factual reportage and maintain a healthy balance between maximising viewership and keeping the public informed.
- Be proactive and transparent including, but not limited to, fact-checking the content beforehand and signposting sponsored content in advance.
- Beware of the political agenda of media owners and not compromise on journalistic integrity in exchange for rewards and resources.

These recommendations, when taken, would enable a hospitable environment for journalists and independent news outlets to conduct their critical work without fear and are less likely to practice self-censorship. By revising or repealing vaguely-worded laws, governments and the public alike would also benefit from a greater transparent and less punitive approach as criticism is taken as positive feedback that can inform policymakers over the blindspots; while individuals – given the access to accurate information – can make an informed decision, a matter of paramount importance during the ongoing COVID-19 pandemic. Additionally, subscribing to professional and ethical standards can lift the overall standards of quality journalism.

6 Conclusion

Journalism and media organisations are undergoing a critical period of transformation. The digitalisation of information and changing consumer behaviour has disrupted media's traditional sources of income. Fierce competition among online news outlets, freelance journalists and information influencers has created, or encouraged, the race to catch viewership, which prioritise speed and sensational reporting.

As internet penetration and digital disruption intensify, the online media landscape has brought forth new players such as online content curators, information influencers and independent online news outlets who fiercely compete for attention, viewership and – most important – resources. While online users have greater access to information in a variety of genres, this decentralisation of information also prompts new challenges such as sensational reportage, spread of disinformation, the shift to automated journalism backed by technology firms.

Seeing this as an opportunity, governments are increasingly exploiting the growing pains of online journalism for its own political benefit. They have used laws to selectively repress the media and manipulate public opinion: voices critical to the government are suppressed in the name of societal harmony, while allowing fake news and hate speech to run rampant if it benefits the government. In particular, governments are cracking down hard on independent media outlets, who constitute critical voices keeping public office holders accountable.

In order to avoid repercussions, self-censorship is increasingly practised; while alternative incomes from pressure groups are considered as an option to keep media organisations viable. However, such actions negatively impact media freedom and quality journalism in Southeast Asia.

Hence, this report offers key recommendations to stakeholders and urges them to undertake legal reform to ensure media freedom and recognise and promote quality journalism.

International organisations can help setting the tone of discussion when following up with governments on its obligations to the international standards, and provide the much needed resources. Governments can help create an enabling environment for independent media to flourish by revising or repealing the vaguely worded laws and support the promotion of quality journalism. Meanwhile, journalists and technology companies must be proactive and professionally adhere to their ethical or community standards when performing their tasks informing the public, especially on combating disinformation and fact-checking their content.

The solution to this problem cannot be restrictive laws, rather the goal should be to promote the responsible and ethical use of the medium. Instead of taking away rights in fear of how people will use it, the focus should be supporting those who use these rights responsibly.

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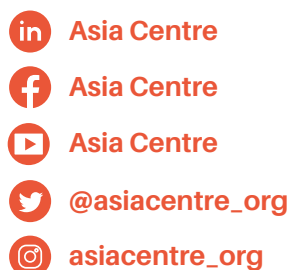
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Asia Centre (asiacentre.org) is a not-for-profit social enterprise and seeks to create human rights impact in the region. Asia Centre's work focuses on issues related to civil society, democracy, elections, freedom of expression, freedom of religion or belief and human rights. The Centre believes that knowledge toolkits built from evidence-based research on critical human rights issues are important for designing activities for stakeholder capacity strengthening and making informed policy interventions. With this aim, Asia Centre was established in Bangkok, Thailand in 2015 and a second branch was registered in 2018 in Johor Bahru, Malaysia. On 21 May 2021, the Centre was recommended by the Committee on Non-Governmental Organizations of the UN ECOSOC for a Special Consultative Status at the UN.

To date, the Centre has been undertaking evidence-based research on key human rights issues to assemble knowledge tools such as books, reports, baseline studies, policy briefs, commentaries, infographics, videos and training programmes. These knowledge tools are often developed at the request of civil society, INGOs and parliamentarians for evidence-based research on critical rights challenges. These knowledge tools are then used to design capacity building programmes for stakeholders so that they can affect positive policy changes.